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SMALL COMMUNITIES ENVIRONMENTAL ASSISTANCE

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 1296, S. 1331, S. 1514, AND S. 2184

BILLS TO ASSIST SMALL COMMUNITIES TO FINANCE ENVIRONMENTAL FACILITIES

MAY 15, 1990

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SMALL COMMUNITIES ENVIRONMENTAL ASSISTANCE

TUESDAY, MAY 15, 1990

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:19 a.m. in room 406, Dirksen Senate Office Building, Honorable Quentin N. Burdick (chairman of the committee) presiding.

Present: Senators Burdick, Moynihan, Baucus, Chafee, Jeffords, and Symms.

OPENING STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator **BURDICK**. Today we will be hearing testimony on legislation pending before the Environment and Public Works Committee to assist small communities in financing environmental facilities. There is growing evidence that our small communities are hard pressed to pay for needed environmental infrastructure. This includes drinking water systems, waste water treatment plants, and solid waste disposal facilities.

On their own, many small communities have never been able to achieve the public health and environmental protection goals that were set for the Nation as a whole. They need financial assistance from the Federal Government.

I'm especially concerned that small communities have safe drinking water. The quality of drinking water is directly related to public health. Water and waste systems are basic building blocks for economic development.

The witnesses testifying today will give us a clear picture of the need for environmental infrastructure in small communities and the special problems small communities face in trying to finance environmental facilities.

I also look forward to hearing comments on four bills addressed to small community financing problems. In addition to my Rural Water Supply Bill, we may also hear testimony on bills by Senators Baucus, Bentsen, and Bradley.

Based on our findings, the Committee will bring the first element of the present four bills into a single legislative package to assist small communities.

Welcome, Senator Moynihan.

Senator **MOYNIHAN**. Thank you, Mr. Chairman.

These are indeed a set of bills that—each of us has one—and Senator Bradley in particular has a bill of importance having do with what seems to be a quirk in the Clean Water Act that is having, at minimum, unintended consequences—not very welcome consequences—for small communities. The Senator has given a great deal of thought to the matter and I look forward to hearing him.

Thank you, sir, for recognizing me.

Senator BURDICK. Senator Bradley, let's hear from you.

STATEMENT OF HON. BILL BRADLEY, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman, for the opportunity to testify today.

All Americans, I think, deserve and expect to be able to turn on their water faucets and get safe, drinkable water. I think all Americans also expect to be able to swim in the oceans, lakes, and rivers and enjoy them. But that's not going to be possible if our waste water treatment plants and other environmental facilities continue to age and fall apart because communities can't afford to expand or improve them.

It's apparent that the funds available from Government at all levels are not adequate to meet the needs of our environment today and in the future. This is particularly true with respect to capital intensive programs such as waste water treatment. For example, New Jersey municipalities will have to finance nearly $3 billion in waste water improvements over the next five years just to remain in compliance with the Clean Water Act. Only about $500 million is likely to be available from the Federal Government. That leaves an enormous shortfall of about $2.5 billion.

Municipalities clearly need options. Two months ago I visited a small town called Roosevelt, New Jersey, not high on the priority list for Government help. The town is desperate. They need $3 million to upgrade their plant.

Senator BURDICK. Surely Roosevelt is a famous place.

Senator BRADLEY. It's very famous, very famous. It was built in the 1930s, there were a lot of garment workers from New York who came out——

Senator BURDICK. Ben Shawn lived there.

Senator BRADLEY. It has Ben Shawn murals. I'm very pleased that you have greater sensitivity than I even thought to New Jersey and of course to Franklin Roosevelt. [Laughter.]

Senator BURDICK. Does everybody feel that way about New Jersey? [Laughter.]

Senator BRADLEY. Anyway, they need $3 million to upgrade their waste water treatment plant. In the meantime, they're violating the law and fines are adding up. So far the fines for this little community are over $500,000.

This is not an isolated example. Virtually all other States have similar alarming statistics. The USEPA estimates that local governments will need to spend $100 billion over the next 15 years simply to comply with current national waste water standards.

Most of these funds are not going to come from Federal and State Government.

At just the time when local problems are worsening because the facilities are aging, the level of Federal assistance is steadily shrinking. Today the Federal Government's aid to communities for clean water is half, in real terms, what it was in 1980. The level of aid is still decreasing.

Mr. Chairman, in response to these alarming and really desperate facts, I introduced S. 1514, the Waste Water Treatment Financing Act. As the Federal role of the financing of the environmental infrastructure, unfortunately inexorably diminishes, it is important that options and alternatives available to localities be expanded, not constricted.

My legislation attempts to achieve this without detracting from existing Federally involved programs, treatment standards, and enforcement. The legislation gives local governments additional tools to harness the resources of the private sector and use a private/public partnership to meet some of their environmental infrastructure needs.

My bill is drafted to make sure that the moneys raised will actually be used for important environment needs. In each case, the State Revolving Fund Administration can review a project to ensure that each meets a high standard. As I said, the bill does not force communities to take advantage of the private sector, but it removes road blocks which now prevent them from using the private sector.

Current law and regulations now thwart private sector help because of the paperwork signed when most communities accepted Clean Water money. They must be wary of private sector involvement even to expand or improve a treatment plant. If a community compromises its existing plant by commingling its plant with equipment tainted by private sector ownership or financing, the town may find itself forced to repay all of its Clean Water grants. At the same time that we're starving the towns of Federal money, we're denying them of alternatives.

There are two sections in the bill. The first clarifies that communities can pledge the revenue collected from operating their waste water treatment plants to secure needed debt. Such financing will allow this, without triggering any repayment of past grant funding. Funds raised through such debt leveraging will remain in the community and be used for construction or rehabilitation of water treatment plants, innovative efforts to stabilize rates paid by local citizens and businesses, or other environmental improvement projects in the community.

This latter provision enables communities to look at the environmental needs of the community broadly, enabling funding derived from the waste water project to meet interrelated needs. State approval is required for proposed local projects to protect the public interest and to ensure that only needed projects go forward.

This legislation will also give the State Revolving Fund some new options. Besides making direct loans for construction or rehabilitation, State Revolving Funds would be able to guarantee local financing for purchase contracts, leases, or service agreements. The Revolving Fund could use a portion of its moneys to purchase bond insurance or a letter of credit to guarantee its obligation to an equipment lessor or facility operator. This might lower the interest rate that many localities would have to pay for financing projects.

These provisions give localities the options they need to fight pollution of our drinking water and streams.

Mr. Chairman, I hope the bill will be yet another weapon in our fight to keep our beaches unspoiled, our lakes clear, and our drinking water safe. Unless we make it easier for local governments to improve and rehabilitate their treatment facilities, we are jeopardizing our precious water resources. It's completely unacceptable to pass strict laws, insist on enforcement, call for fines, and not do everything possible to aid local governments in meeting Federal regulations.

I've called for strict laws, I've pushed for strong enforcement, I've signed letters to colleagues pleading for adequate public Clean Water funding, and I stand ready to assist, in any that I can, our communities which face these enormous tasks.

The bill, modest as it is, is a part of my personal commitment to meet the clean water needs of communities everywhere, and I hope that the Committee will look upon it favorably. I stand ready to work with the Committee to make any refinements or clarifications that you might find necessary.

Thank you, Mr. Chairman.

Senator **Burdick**. Thank you, Senator.

Senator Moynihan.

Senator **Moynihan**. Could I ask if you have any estimate about what, if anything, this will cost the Federal Treasury?

Senator **Bradley**. It will cost the Federal Government nothing.

Senator **Moynihan**. Nothing. This enables municipalities to go forward to basically use existing facilities as collateral in expanding to meet Federal regulations.

Senator **Bradley**. You can pledge revenue stream.

Senator **Moynihan**. You can pledge revenue stream.

Senator **Bradley**. Not the facility. That's a very important point.

Senator **Moynihan**. But the fact that it's there and producing revenue can be used as a pledge in the process of acquiring new debt to comply with Federal regulations?

Senator **Bradley**. That's correct.

Senator **Moynihan**. There is no cost to the Federal Government of any kind. On the other hand, the Federal Government has mandated these requirements. If you don't meet them, the Federal Government fines you. You've had some fines levied in New Jersey, have you not?

Senator **Bradley**. We certainly have. We have 110 municipalities out of the roughly 340 municipalities in violation of the Clean Water Act. To date the fines have been $1.7 million and it can grow to $50,000 per day.

Senator **Moynihan**. So there is a cost to the Federal Government to wit the money we lose in fines. [Laughter.]

Senator **Bradley**. I suppose that's one way to look at it.

Senator **Moynihan**. They're probably going to be talking about that this afternoon at the White House. [Laughter.]

How do we increase fines instead of taxes? [Laughter.]

Senator **Bradley**. That's true. That would be a revenue, wouldn't it? [Laughter.]

Let's fine our taxpayers, right? [Laughter.]

Senator **Moynihan**. So the epicenter, Senator Bradley, is that you're not proposing any additional expenditure by the Federal Government, you're simply trying to adjust a statute in a way that will enable municipalities to be in compliance with regulations established here in Washington, D.C. We have told them what to do, yet the law makes it very difficult for many to do it. Consequently, people that are willing and desirous to be in compliance, find themselves not so, and find themselves paying fines. It's all kind of dumb, isn't it?

Senator **Bradley**. Well, I think it's counterproductive to the purpose of cleaning up our waterways. That's clearly the case.

Senator **Moynihan**. I very much agree. I congratulate you on the bill. I know that the Chairman will want to look at it very carefully as well as Mr. Baucus, who has legislation of his own.

Thank you.

Senator **Bradley**. Thank you.

Senator **Burdick**. Next, I'd like to call upon the Senator from the greatest State next to North Dakota.

Senator **Baucus**. Senator, I was just wondering, what is the population density of New Jersey? How many people per square mile?

Senator **Bradley**. There are 7.5 million in a very small area. Senator, 25 percent of the land mass——

Senator **Baucus**. How many people per square mile?

Senator **Bradley**. It depends on where.

Senator **Baucus**. On the average.

Senator **Bradley**. It gets as high as 40,000 per square mile.

Senator **Baucus**. What is the average in New Jersey?

Senator **Bradley**. I would say 40,000 per square mile in many parts of New Jersey.

Senator **Baucus**. I asked the question because in my State of Montana it's about four or five total people per square mile.

Senator **Bradley**. You get a pretty different picture. 40,000 versus four or five.

Senator **Baucus**. That's the point I want to draw out. Small communities in both the State of Montana and the State of New Jersey face these problems. Small communities across the country are less able financially to conform with the environmental requirements that they, the communities, know they should conform to whether it's a small community in the State of Montana or a small community in the State of New Jersey—which are probably at the opposite ends of the spectrum in terms of population density.

I draw this point out because often the interests of the State of New Jersey are somewhat different from the State of Montana. We're an agriculture State much more proportionally than is New Jersey. In addition, I remember not too many months ago, the other Senator from New Jersey, on the floor very adamantly arguing in favor of 55 mile an hour national speed limits, which is not near and dear to the hearts of those of us in the West, again because we don't have many people in the West. There is virtually no traffic congestion on highways in the West. I can drive from Billings, Montana to Miles City, 140 miles away and for many miles not see another car. This is a four lane interstate highway.

But the point is that small communities nationwide face a very, very difficult problem, much more difficult than the problems of larger communities in financing waste water sewage proposals, drinking water conforming requirements, et cetera.

I thank you, Senator, for appearing and helping educate not only the American People, but particularly the Congress and this Committee on the national need to give assistance to smaller communities.

I thank you, Senator.

Senator **Bradley**. I thank you very much for your comments. I do agree with you that when it comes to clean water, the interests of Montana and New Jersey are the same, particularly for your small community trying to grapple with an eroding tax base, Federal mandates, and the desire of all your citizens to have clean water. I know that the bill which you have introduced, which I have cosponsored, and this effort are really attempts to make sure that we deliver on the promise of clean water.

I thank the Committee for your consideration of this, and I stand ready to work with you to make any kind of refinements that you feel are necessary. I would hope that we would be able to move the bill. It's a desperate need. Municipalities in my State believe that this will be helpful. It won't solve the total $2.5 billion needs of New Jersey waste-water treatment financing, but it will, in the margins, help in many of the communities.

Senator **Burdick**. Thank you very much, Senator.

Senator Bentsen was scheduled to appear today, but he is at the White House for a meeting. His statement will be made a part of the record at this point.

[Senator Bentsen's statement follows:]

STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Mr. Chairman, I appreciate the opportunity to appear before you today regarding water supply assistance for poor and rural areas. In terms of priorities, this legislation should be at the very top of the congressional agenda. The problems you are seeking to address often affect the poorest of our communities, the very ones least able to absorb the tremendous costs associated with having a clean, plentiful, and reliable water supply.

As you know, I have introduced legislation aimed at assisting the colonias in Texas. I have also cosponsored a bill authored by Chairman Burdick and Senator Baucus. They are both good bills, which take slightly different approachess. However the differences in these bills are resolved by the Committee, I'd like to emphasize how important I regard including assistance to the colonias, which may bill addresses. I realize that some of you may not know what a colonias community is, and I'd like to take just a minute to describe it.

Mr. Chairman, most Americans take water and sewer service for granted. However, there are many Americans who lack even water and sewer facilities. Tens of thousands of Americans along the U.S.-Mexico border live in "colonias." These communities, most often adjacent to existing cities and towns, lack the facilities that most Americans consider basic necessities of life. They have no fire departments, paved roads or water and sewage services.

From a health standpoint, the colonias are almost a third world nation. Their residents are subject to diseases that are rarely seen in more prosperous areas that have proper sanitation. However, their location and the infectious nature of most diseases poses a threat to the health of many Americans who do not themselves live in colonias. Contagious diseases don't stop in the colonias. They may start there, but they certainly do not stop there.

Last year Texas voters approved a constitutional amendment creating a revolving loan program to help colonias and other unicorporated rural areas provide water and sewage services. The amendment earmarked 20 percent of an authorized $500 million in Texas Water Development Bonds for this program. My legislation is intended to provide a needed federal component to that effort.

Mr. Chairman, for me, the issue is a simple one. The issue is wheter children will continue to walk through ankle-deep sewage after a hard rain, and whether we as a Nation want to endure the expense to taxpayers and the suffering to sick children and their families of the rampant disease problems resulting from the lack of the most basic amenities. Amenities that most Americans take for granted—a sink with running water, a flush toilet. The issue is whether the citizens of these areas will continue to be the poorest of the poor, consigned to third-world living and economic conditions, or whether they will have an opportunity to be a part of the American dream.

In October 1988 the General Accounting Office, an investigative arm of Congress, dereleased a report on colonias that had been prepared at my request. In what it described as a conservative estimate, the GAO said 110,000 Texans live in 566 colonias along the border. The report summed up the situation.

"These substandard housing subdivisions in rural districts consist of small plots of land with few or no roads and polluted water and inadequate sewage facilities; colonias are in unicorporated parts of counties, adjacent to American cities and towns along the border.

"The land for colonias was usually acquired by migrant workers and other low-income groups of Mexcian descent. Because colonias exist in unincorporated parts of counties, local jurisdictions have not been obligated to provide water and sewage services, and the new owners have lacked the financial means to acquire such services. These substandard living conditions pose a health problem to the colonias' residents as well as to the entire population of the border counties, according to the Texas Water Development Board."

The GAO report also pointed out that the border counties had a much higher rate of gastrointestinal diseases than did the rest of the state or nation. It stated, "These diseases are often caused by poor hygiene, polluted water (common in the colonias), and contaminated foods."

Mr. Chairman, as the GAO report stated, these health problems pose a threat not only to residents of the colonias but "to the entire population of the border counties."

Under the Texas program, colonias in economically distressed counties would be able to obtain long term, low interest loans from this fund. Counties would be considered economically distressed if unemployment is 25 percent above the State average and per capita income is 25 percent below it. All border counties would qualify. Only those colonias occupied as of June 1, 1989 will be eligible for loans from the new revolving fund. In addition, loans will be made only in counties that have acted to prevent development of future colonias.

My original bill would authorize $50 million per year in funding through the Farmers Home Administration to match the state funding of revolving loan programs. The match would be 50 percent Federal funds and 50 percent State funds. It would not add to the budget, because the funding would be within existing program ceilings. However, this was drafted as an amendment to the rural development bill. It would be more appropriate at the current time to modify the larger water and sewer bills now pending before the Committee to ensure that colonias would be eligible for assistance and to use whatever funding mechanism you select to provide a Federal match for the sort of State revolving fund that Texas has set up.

As in the Texas program, these Federal funds would be targeted to economically distressed areas, defined as counties with unemployment 30 percent above the national average and per capita income 30 percent below it. All counties along the U.S.-Mexico border would qualify. To avoid duplication and reduce paperwork, the program would be administered by individual States with Federal auditing. It would not create a new bureaucracy. In fact, it would cut down substantially on the red tape and overhead costs normally associated with water and sewer programs by requiring the States to administer this program. Since State funds will be at least half of the total, the States will have every incentive to manage these funds wisely.

Under my bill, funds would be made available to states for use in revolving loan funds. The States would disburse money to help local residents in economically distressed counties to bring needed water and sewer services to those areas which are now without them. In order to qualify for federal money, the State would have to put up matching funds.

Channeling these funds through State revolving loan funds will result in a very high degree of leverage, giving more work on the ground for a smaller contribution of Federal dollars. The Texas Water Resources Board estimates that each Federal dollar into the Texas state fund will result in three dollars going out to the colonias. That is an enormous financial benefit, which is the kind of Federal State partnership we would do all we can to encourage.

Mr. Chairman, I was born in the Rio Grande Valley of South Texas, and many members of my family are still there. My roots run deep there. But the issue here is much more than the old home ties. It is whether tens of thousands of U.S. citizens are going to have a share of the hope and opportunity that we call the American dream. Mr. Chairman, I hope that the Committee will take action to address this problem, and do so with dispatch.

Senator BURDICK. Statements from Senators Mitchell, Reid, and Conrad will also be included in the record.

[The statements referred to follow:]

STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

Good morning, ladies and gentlemen.

I want to commend our Chairman, Senator Burdick, for organizing today's hearing on the important problem of financing environmental and publc health facilities in small communities.

Over the past year, there have been a number of reports, warning us about the nation's deteriorating infrastructure. In a report prepared by the Office of Technology Assessment, the authors found that——

"The need to replace and improve public works has been well documented in more than a dozen national studies since 1980. The National Council on Public Works Improvement estimated in 1988 that annual future infrastructure investment needs could require double the $45 billion invested in 1985."

Financing needed infrastructure and up-to-date environmental protection and public health facilities is a daunting task for State governments and large cities. I know that in many small towns, with limited financial resources and technical expertise, these problems can be more diffcult and in some cases, overhwhelming. As OTA stated in its report——

"For a number of small, remote communities, compliance with new Federal environmental standards will require financial resources beyond their capabilities."

Small communities face an additional problem. Assessing expected increases in environmental user fees, the Environmental Protection Agency recently reported——

"Most of the municipalities that would experience the largest overall percentage increase in fees are the smallest municipalities."

The bills we are considering today would be a significant step forward in helping small communities throughout the nation build the facilities they need to protect public health and the environment.

I look forward to hearing the suggestions of the witnesses testifying today on ways to improve and strengthen the proposed legislation. I am especially pleased that we will be hearing from Mr. Steve Levy of the Maine Rural Water Association. I know that expansion and improvement of drinking water supply systems is a major concern of many of the small communities in my home State of Maine and I want to be sure that the legislation we develop will address Maine's needs fully and effectively.

Thank you, Mr. Chairman.

STATEMENT OF HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Mr. Chairman, thank you for conducting this hearing today to consider proposals to fund environmental projects in smaller communities. I applaud the leadership you and other members of this Committee have demonstrated to address the unique needs of small communities.

It is no secret to those in this room that smaller communities will continue to experience grave difficulty in meeting the requirements established in environmental laws and regulations. To address this problem, I have cosponsored S. 2184, the Small Community Environmental Assistance Act, introduced in February by Senator Max Baucus. S. 2184 would authorize $1.5 billion over five years to establish revolving loan programs at the state level to help small communities finance capital-intensive environmental facilities, including sewage treatment systems, water treatment works, solid waste landfills and underground storage tanks.

When he introduced S. 2184, Senator Baucus noted that the cost of environmental facilities for the smaller communities could total billions of dollars. The Nevada Legislative Commission's Subcommittee on Water and Waste Water has established a "Rural Technical Advisory Committee" to consider the issues associated with increasing environmental regulation. An update on the Safe Drinking Water Program by Mr. Jeff Fontaine, the Nevada Public Health Engineer to the Rural Technical Advisory Committee last November, is telling.

According to Mr. Fontaine, "the Nevada State Health Division is responsible for ensuring that the 750 public water systems in Nevada are in compliance with federally mandated monitoring and treatment requirements. A PWS serves 25 or more persons at least 60 days a year. Of the 750 PWS in Nevada, 386 are classified as community systems; they serve 95 percent of all Nevadans at their primary residence, another 300 non-community PWS serve residents and visitors alike at transient locations such as, campgrounds and casinos. Finally, 110 non-transient PWS serve schools and worksites."

Public Water System operators may find it difficult to meet federal requirements. Mr. Fontaine believes "A conservative estimate is that PWS in Nevada will need to make capital improvements amounting to $200 million and annual operating and monitoring costs of $5 million. Tripling of monthly water bills can be expected in many rural areas."

In short, this translates into higher water bills for Nevadans. But, it is doubtful that higher monthly payments will provide the funds necessary to meet the goals set forth in federal law.

I look forward to the testimony presented today, Mr. Chairman, and hope we can develop a comprehensive proposal to address the concerns of smaller communities. Thank you.

STATEMENT OF HON. KENT CONRAD, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

I want to thank you, Mr. Chairman, for holding this timely and important hearing. Small communities face ever increasing difficulties financing their environmental control facilities. Their difficulties are compounded with the passage of every new environmental control law and with the promulgation of every new environmental regulation. Small communities want to comply with environmental regulations but simply lack the resources. Residents of small communities already spend a larger share of their income for environmental services than do residents of larger communities.

I am pleased to be an original cosponsor of S. 2184, The Small Community Environmental Assistance Act of 1989. I strongly support the concept in this bill of providing loans to small communities to finance environmental facilities. In addition, I believe the idea of providing grants to economically disadvantaged small communities is a good one. I would hope that these provisions will be retained in the event the Committee decides to combine the several bills that are the subject of this hearing.

Mr. Chairman, you and I come from a state of mostly small communities. Over 95 percent of North Dakota communities have a population of less than 2500. We know firsthand the problems faced by these communities complying with new environmental regulations. These problems are greatly compounded when the community is econonmically disadvantaged. Unfortunately for the residents of North Dakota, many of our communities have been ravaged by drought related econimic impacts and a downturn in the state economy over the past few years. These communities simply lack the resources to invest in new or expanded water plants, sewage treatment plants, landfills, and other facilities required by federal environmental regulations.

An immediate problem for all small communities across the country will be to respond to what is anticipated to be very costly improvements to municipal landfills. In may mail and in meetings all across North Dakota, representatives from small communities have expressed concern over their ability to pay for EPA's pending new regulations. The cost of compliance with these regulations will be a significant burden for these communities.

Another problem facing North Dakota communities is the cost of providing adequate drinking water. This problem has been exacerbated, particularly in eastern North Dakota, by the federal government's failure to follow through on commitments connected with the Garrison Diversion Project. In return for the flooding of over half a million acres of fertile farmland, the state was promited adequate funding to divert Missouri River water for water supply and other uses. Water supply from Garrison will assist dozens of small communities. But because the Administration has failed year after year to recommend funding for the Garrison Diversion, many communities' water supply needs go unmet. Congress has recongnized the commitment made previously to North Dakota, and I am optimistic it will again restore funding for the Garrison project in fiscal year 1991.

Mr. Chairman, I appreciate the opportunity to submit this statement for the record. I hope the Committee will see fit to provide the much needed financial assistance to small communities.

Senator BURDICK. Now we will proceed with the first panel, Robert Wayland, Deputy Assistant Administrator for Water, U.S. Environmental Protection Agency; and General Pat Kelly, Director of Civil Works, U.S. Army Corps of Engineers.

Senator BAUCUS. Mr. Chairman, I was just wondering if I could make a very brief, short statement at this time.

Senator BURDICK. Of course you can.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Chairman, many communities in Montana and throughout the country are fighting an uphill battle to provide up to date environmental protection facilities. Today's hearing is an opportunity to consider several bills designed to help small communities build the facilities necessary to protect the environment and human health.

There is growing evidence that those under the population of 2,500 people have a significant need for improved or expanded environmental protection facilities including sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks.

In addition, however, small communities face special problems in financing environmental facilities. They face reduced economies of scale and limited access to financial capital.

The Environmental Protection Agency reports that small communities are most likely to experience, in their words, "rate shock" as a result of new environmental projects and that "the user fees of 20 percent of the municipalities under 2,500 persons may rise over 100 percent above current levels by 1986". In other words, the costs of about one fifth of those communities under 2,500 will double over the next five or six years.

It is therefore clear that the Federal Government must do more to assist communities in financing the construction of basic environmental facilities. Without expanded Federal assistance, many small communities will be unable to attain the environmental goals that we have set for the country as a whole.

The legislation that I have introduced would assist States in establishing revolving funds to help small communities finance environmental projects. State revolving funds would provide low interest loans and would be a permanent environmental financing resource at the State level.

States could also provide grants to the most financially disadvantaged communities.

I want to thank you, Mr. Chairman, for scheduling this hearing. It's extremely important, particularly important to those of us in our part of the country. Many, many small communities are having a very difficult time meeting the goals that we have set. I've spoken very often with the administrators of these communities. Frankly, knowing how hard they struggle to find the dollars that they have to come up with, I know that this is a problem that we have to help resolve here at this time.

I'm especially pleased, Mr. Chairman, to welcome to this hearing, Mr. Bill Leonard who is from Whitefish, Montana.

I must say, Mr. Chairman, that it wasn't too long ago that we had an oil spill in Montana. It was not off the shores of Alaska, Rhode Island, New Jersey, or New York. It was in the State of Montana.

Senator **Burdick**. Did it go into Yellowstone?

Senator **Baucus**. No, it went into Whitefish Lake.

Senator **Burdick**. It did not go into Yellowstone?

Senator **Baucus**. It did not go into Yellowstone. It didn't go down the river to North Dakota.

This is on the other side of the Divide, Mr. Chairman. It's going to go out toward the Pacific.

But, anyway, Mr. Leonard, as did many others, helped to clean up that oil spill. This is not directly related to drinking water regulations, waste water, or sewage treatment plants, but just to highlight that we, too, have environmental problems. We, too, need the financial resources to solve them.

Thank you, Mr. Chairman.

Senator **Burdick**. Mr. Jeffords, do you have a statement?

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **Jeffords**. Mr. Chairman, just a brief one. I have a statement which I'd like to make a part of the record.

Senator **Burdick**. It will be received.

Senator **Jeffords**. I just wanted to certainly welcome the witnesses. We're certainly pleased to have you here. I come from one of these small towns. We have only about 600 people in our town, and yet we're probably one of the most environmentally minded towns in the State of Vermont.

So, I'm indeed interested in this bill and especially interested in your testimony this morning, General Kelly and Mr. Wayland.

Thank you.

[Senator Jeffords' statement follows:]

Opening Statement of Hon. James M. Jeffords, U.S. Senator From the State of Vermont

Mr. Chairman, Thank you for calling today's hearing. We talk pretty tough around here—we work to set standards that will assure a safe envrionment for all American's. We generally err to the side of caution. While economics is always a concern, I think most observers to the committee's actions would say that economics takes a back seat to environmental protection.

Of course, at the same time, this committee doesn't have the last say on the purse strings. More often than not, the means by which the general population comes to comply with our programs are largely left to that affected population. We like to say, "Polluter Pays."

Well, Mr. Chairman, recent studies generally agree that some sectors of the population are destined to shoulder a disproportional share of the costs of the facilities necessary to meet the goals of our program. Small communities and poor communities are facing enormus costs to build the drinking water, waste water and solid waste facilities that have been mandated at the request of this and other committees.

Today we have several bills before us to ease the burden for these communities most unable to pay for thier requisite infrastructure improvements. We have good witnesses ready to share their thoughts for improvements to these legislative initiatives.

Mr. Chairman, it's no secret that the Federal Construction Grants Program is soon to be phased out. A deal struck years ago between the states and the Federal Government makes it unlikely that it will be renewed.

And yet, tremendous costs remain.

The bill's before us offer modest relief to those who, by many accounts, are simply unable to afford the necessary facility costs.

It is a responsibility of this committee to address the concerns of those who are willing, but financially unable, to comply with the laws we set out.

Thank you, Mr. Chairman.

Senator BURDICK. All right, Mr. Wayland.

STATEMENT OF ROBERT H. WAYLAND III, DEPUTY ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION AGENCY

Mr. WAYLAND. Thank you, Mr. Chairman and members of the Committee. I am Robert Wayland, Deputy Assistant Administrator of the Environmental Protection Agency.

With your permission, I'd like to summarize my prepared statement and have it included in total in the record.

Senator BURDICK. Without objection, it will be received.

Mr. WAYLAND. I'm very pleased to have this opportunity to talk with you about what we believe to be the considerable challenge faced by small communities in meeting environmental mandates.

EPA has, over the last several years, taken various actions designed to increase our understanding of the impacts of statutory and regulatory requirements on small communities. In the fall of 1987, Lee Thomas requested an analysis of the cumulative costs of the environmental controls then under development on the municipal, small business, and agricultural sectors of the economy. We call this "The Sector Study". The Administrator's request arose from the concern that EPA's regulatory review process has tended to focus on one regulation at a time, thus masking the greater financial burdens imposed due to cumulative impacts.

For context, we noted that the 1984–1985 Census of Governments reported that municipalities under 50,000 in population were devoting 21 percent of their expenditure to environmental protection.

The Sector Study determined that the baseline average household cost for environmental services in communities under 2,500 population was $300 per household. This was the smallest size category analyzed in the Sector Study, and we recognize that there are many municipal governments considerably smaller in size. While per household baseline costs are somewhat higher in larger communities, we believe this is due to the decreased range or quality of services that small communities often provide.

For example, small governments may not supply drinking water or may not operate waste-water treatment facilities. However, because household incomes are lower, citizens of small communities pay a higher percentage of their income for these services than do the citizens of larger communities.

Although the Sector Study identified some 85 recently adopted or planned rules as potentially imposing costs on one or all of the sectors examined, the three categories of rules with the dominant cost impacts for local governments were waste-water treatment, safe drinking water, and municipal solid waste. The study determined that the annual average cost increase per household for all small communities under 2,500 population would be $170 or 57 percent, against a national average for all city sizes of about $100.

But between 21 percent and 30 percent of these small communities would have difficulty financing the new capital requirements and expansion of monitoring, operation, and maintenance. The increases in fees will be accompanied by a greater reliance on local debt financing mechanisms to provide funds to purchase capital equipment. Although many of the smaller communities are unaccustomed or averse to using debt financing mechanisms, most would not be precluded from using these mechanisms by their current financial conditions.

The cost of several regulations that may affect municipal governments were either not included in the Sector Study analysis—because they were not available at that time—or their cost estimates have been revised since the study was completed. Therefore, the extent of impacts may be underestimated. For example, the Sector Study did not include costs for regulations controlling 25 drinking water contaminants, and costs have been revised upwards for four other drinking water regulations.

We continue to refine the cost estimates associated with individual rules since the Sector Study was completed, but we have not included the revised estimates in a new cumulative impact analysis. Our judgment is that the Sector Study results would probably not be significantly changed. This study increased the awareness in the agency of the potential magnitude of the cumulative impacts of individual actions and has prompted us to take action to assure that we carefully consider financial impacts as individual rules are developed.

In February of 1982, EPA issued Guidelines for Implementing the Regulatory Flexibility Act. The Guidelines assist employees who develop regulations in determining whether new rules will have a significant impact on small communities, as well as small businesses and small organizations. We have recently hired a full time focal point for small communities, the Small Community Coordinator.

The Sector Study suggests a number of ways in which impacts can be ameliorated. Many of these are being pursued and are detailed in my statement at some length. These include establishing public dialogue on the issues, which we're pursuing through a public-private partnership task force and the Environmental Financing Advisory Board. Mr. Torkelson, who is here from the State of New York, is a member of that Environmental Financing Advisory Board.

In the waste-water and drinking water programs we have substantial technical assistance programs in place which both help local communities understand what needs to be done to comply with rules and how they can approach meeting those needs. In many cases, the strategy that may be most appropriate is to look for opportunities to consolidate with larger systems, or otherwise take advantage of the economies of scale that are available elsewhere.

I see that the red light is on. I guess that in trying to wind up, I simply have to note that the Administration has indicated that it is not able to support the legislative proposals that are the basis of the hearing this morning both because of a longstanding tradition of a very limited Federal role in supporting public water supply construction at the local level, and because other proposals largely duplicate the State Revolving Funds that have been established as a successor to the Clean Water Act Grant program.

Thank you, Mr. Chairman.

Senator **Moynihan**. Mr. Chairman, if I may make clear— is the Administration is opposed to each of the bills before us?

Mr. **Wayland**. Yes, sir.

Senator **Moynihan**. And have you a position on the bill that Senator Bradley described?

Mr. **Wayland**. Senator Bradley's description of his legislation this morning, I think, helps to address one of the major basis of concern about that proposal. That concern was the possibility, contrary to longstanding practice expressed through OMB circular A-102, that facilities constructed with Federal assistance could be forfeited in the event that a debt obligation made to a third party is defaulted. I understood the Senator say several times this morning that the legislation would not, in fact, operate that way. I think that's a basis for some further discussion between the agency and the Office of Management and Budget.

Senator **Moynihan**. Could we ask that you do get us a statement on Mr. Bradley's bill as well?

Mr. **Wayland**. Yes, Senator, I'd be glad to get that for you.

Senator **Moynihan**. We'd appreciate that.

Thank you.

Senator **Burdick**. Senator Chafee.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator **Chafee**. I have a statement, Mr. Chairman, that I'll just submit for the record, thank you.

Senator **Burdick**. Without objection, it will be received.

[Senator Chafee's statement follows:]

Opening Statement of Hon. John H. Chafee, U.S. Senator From the State of Rhode Island

The premise of today's hearing is that small communities will be facing extraordinary environmental costs to comply with clean water, drinking water, and solid waste disposal requirements over the next few years. Bills are pending before the Committee that would offer new forms of Federal assistance to small communities to reduce these environmental compliance costs.

I am skeptical on this issue, Mr. Chairman. At the present time, I cannot see the logic in the Federal Government borrowing another billion and a half dollars to give it to the States so that it might be loaned to small communities. If loans are appropriate, most States are in better financial shape than the Federal Government as a source of the funds. The best thing the Federal Government can could do for public infrastructure is to bring down interest rates on State and local bonds by balancing its own budget.

It's not clear to me that small communities are hit harder by environmental compliance costs than large cities. It may be true that a larger percentage of small city expenditures go for environmental infrastructure than in large cities, but that's because small cities do not generally bear the huge health and welfare costs that are part of large city budgets.

Some communities may be facing rate shock to meet drinking water standards where water has been dramatically underpriced in the past. But that's a problem measured in a few millions of dolllars, not justification for an across-the-board, billion dollar revolving loan fund making an open-ended commitment to local infrastructure projects.

I am sure we will hear many proposals to continue funding the wastewater treatment construction grants program, now that we have reached the phase out period. Some will want to continue it as it is. Some will want to divert that money to new programs. It will be looked upon as a domestic version of the "peace" dividend.

But in my view, we have agreed to an end of that program. We began the phase out policy with the 1981 Clean Water Act amendments and we completed it with the State Revolving Fund amendments in 1987. Those were good decisions that this Committee should uphold. The Federal Government cannot now afford to continue that program, even a modest version of that program for small communities. I am sure that there are steps we can take to make better use of the resources that are available, to provide technical assistance and to develop new technologies to solve environmental problems.

But this is not a time to propose substantial new, or even recycled, grant programs.

Senator **BURDICK**. Mr. Baucus.

Senator **BAUCUS**. I'll wait, Mr. Chairman.

Mr. **WAYLAND**. Thank you, Mr. Chairman.

Senator **BURDICK**. General Kelly.

STATEMENT OF MAJOR GENERAL PATRICK J. KELLY, DIRECTOR OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

General **KELLY**. Mr. Chairman and members of the Committee, I am pleased to be here today to discuss our interest, as part of our civil works mission, in the Nation's infrastructure, and specifically our role in assisting State and local interests in the development of their water supplies.

With your permission, Mr. Chairman, I have a longer statement that I would like to provide for the record, and I'll just summarize.

Senator **BURDICK**. Without objection, it will be received.

General **KELLY**. Thank you, sir.

I'll outline the programs for Army's participation in providing water supply for municipal and industrial uses; highlight our planning assistance to States programs; and provide an overview of our emergency water supply authority. I then will discuss the problems facing our Nation's infrastructure and review our progress to date in addressing these problems. Finally, I will comment on the bill that's before us today, S. 1296, the Rural Water Supply Assistance Act of 1989.

Because water supply is a private economic good, it is sometimes provided by private suppliers; although State and local governments supply most of the water for municipal and industrial use. As a private economic good, municipal and industrial water supply is a fully vendible product. That means it is a good similar to those produced by the private market sector, and its costs can be fully recovered from the users if the service is a sound economic investment.

As a fully vendible service, users should provide the full cost of storage space in new or modified Army projects. This helps ensure that sound economic choices will be made regarding the use of water.

In the area of municipal and industrial water supply, the Army derives its general authority from the Water Supply Act of 1958, as amended as well as from section 6 of the Flood Control Act of 1944.

The Water Supply Act of 1958 establishes a policy of cooperation in development of water supply storage for municipal and industrial uses. Following the general policy outlined above, the Corps of Engineers does not construct single purpose water supply projects. Water supply service provided by the Army consists of storage space in a project for use in regulating the flow of water so that it is useful for water supply purposes by the non-Federal sponsor. Water supply contracts do not involve the sale of water but rather the sale of storage. Any necessary water rights are obtained by the non-Federal sponsor.

We do participate and cooperate with States and local interests in providing such storage. Provision for water supply storage can be made in completed projects as well as projects in the planning stage. At the present time, the Army operates 115 such projects containing about 9.5 million acre feet of storage for municipal and industrial water supply.

In accordance with section 6 of the Flood Control Act of 1944, the Secretary of the Army may enter into contracts with States, municipalities, private concerns, or individuals for the use, for domestic and industrial purposes, of surplus water available at Army projects. Surplus water contracts commonly involve temporary uses and normally require renewal after a five year period.

Another program where the Corps uses its technical expertise in water and related land resources management is to help the States deal with their water resources problems is the Planning Assistance to States Program, also known as our section 22 Program. The objective of the Planning Assistance to States Program is to support States in their comprehensive planning for the development, utilization, and conservation of water. Water supply investigations are a major component of this program.

In addition to general water supply authorities, Congress has provided the Army with specific emergency authorities to respond to contaminated water supplies and drought.

The Chief of Engineers can provide emergency supplies of clean water, when requested, to any locality which is confronted with a source of contaminated drinking water, causing or likely to cause a substantial threat to the public health. This authority was last used just a year ago, in 1989, for hauling potable water to a community in Utah.

Also during the drought of 1988, the Corps provided emergency water assistance to four communities, two in Illinois and two in North Dakota. In 1989, that same assistance was provided to 11 communities, nine in Iowa, and two more in North Dakota. In April of 1990, we extended that assistance to 5 communities in Iowa until November of 1990.

At this point, Mr. Chairman, I would like to provide general comments on the bill, the "Rural Water Supply Assistance Act of

1989". The bill recognizes the problems that small communities face regarding their water supply systems and the importance for providing safe and dependable water supplies. As I mentioned earlier, it is our position that users should pay the full cost of water supply since it is a fully vendible service.

In addition to the capitalization grant provisions, the bill would also authorize the Corps of Engineers to provide technical assistance to any rural water supply system on a fully reimbursable basis. We would support proposals that would use our civil works engineering and construction management capability on that reimbursable basis.

As I mentioned earlier, the Corps is embarking on a program to assist the Nation in addressing its many infrastructure problems, including water supply. We look forward to working with this particular Committee to address these problems and developing solutions to rebuild that infrastructure.

Mr. Chairman, that concludes my oral statement.

Senator BURDICK. Senator Moynihan.

Senator MOYNIHAN. Could I ask General Kelly a hypothetical question, but one that concerns the Corps and the subject here today? If funds were available, I assume the Corps could undertake small water systems as well as large water systems—if it came to that. Right now you're in the billions of acre feet, but could you downsize?

General KELLY. Yes, sir. We have the capability, based on our construction, design, and project management expertise, that we can handle any project from small to large; if that was the consensus of Congress and the Administration.

Senator MOYNIHAN. I think if we're going to proceed this way, Mr. Chairman, we are going to want to find a role for the Corps.

For a century and a half now we have been turning to you for water supply matters, and for two centuries and more for other things. I think we go with our established strengths, and if it means getting you into smaller exercises, well, it will.

General KELLY. Thank you, sir.

Senator MOYNIHAN. Thank you, General.

Senator BURDICK. Senator Baucus.

Senator BAUCUS. Mr. Wayland, as I understand your testimony, you say that essentially there is a difference— that is smaller communities, very small communities, those under 2,500 in population, do face a disproportionate financial burden in conforming with various environmental statutes—solid waste, underground storage, drinking water, sewage, et cetera. Is that correct?

Mr. WAYLAND. That is correct.

Senator BAUCUS. If that is correct, then I do not understand the conclusion of the Administration that it is a matter of public policy that the Federal Government should not provide solutions by giving some additional financial assistance targeted at those smaller communities. I must say that rural communities, particularly in the West, are suffering even more than are smaller communities in more densely populated portions of the United States, partly as a consequence of deregulation in the 1980s.

We had deregulation of railroads, bus transportation, airlines, financial deregulation, et cetera. When there is deregulation, the urban communities tend to do better because that's where the people are. The more sparsely populated areas do much worse. I must say that that is one of the reasons why smaller communities, those in rural America, are suffering even more, particularly in the West where space is much more dynamic in the function of one's way of life than in the East.

Given all that, how in the world can the Administration not believe that as a matter of public policy the Federal Government, which is causing the problem, that is putting this burden on smaller communities, should not also help provide some of the solutions?

Mr. WAYLAND. Senator, I think that a very prominent consideration in formulating the position was the very substantial Federal budget deficit. The budget summit will begin this afternoon to try to find ways to work through the massive shortfall of Federal revenues versus Federal outlays. I think that in earlier—pardon me?

Senator BAUCUS. That means that funding these B-2 bombers is more important than providing for some assistance to the smaller communities that are facing these problems because of the obligations that Uncle Sam has imposed upon them?

Mr. WAYLAND. Having spent the last 16 years or so at the Environmental Protection Agency, I know that there are considerations beyond those that I am familiar with, or in all cases comfortable with, that guide those government-wide priority setting decisions. They are Administration, not EPA, considerations.

At a programmatic level one thing that is somewhat troubling in terms of our need to realize improvements in the quality of drinking water is that our experience with the Construction Grants Program demonstrated that once a program was initiated which held the potential to offer grants and substantial subsidies to a very large number of communities, construction was delayed in those communities until grant funds became available.

The experience with the waste-water treatment grant program suggests that Federal assistance is a two edged sword in terms of achieving compliance.

Senator BAUCUS. I just want to say I wish that you could visit some of the mayors and county commissioners in rural parts of this country, particularly in the West. I think you would then get a much better sense of how much they're strapped. They are very severely strapped. They have no idea how they're going to meet these obligations.

I've talked to county commissioners. I've talked to mayors. They sit next to me at lunch or supper and say, "Max, I don't know how we're going to do it. We want to do it. We want to comply. I have no idea how we're going to do it." I think we have an obligation to help provide some kind of a solution.

Thank you.

Senator BURDICK. Mr. Jeffords.

Senator JEFFORDS. Thank you, Mr. Chairman.

I want to follow up a little bit on the questioning on the utilization of the revolving funds in the past for the purposes of the smaller communities. I wondered if you could give us any historical perspective on utilization for communities under 2,500. Can you tell us how significant the utilization was, or the awards were?

Mr. **Wayland**. We are in the relatively early phases of capitalizing the revolving funds that are the successor to the Clean Water Act Grant Program. Our own grant information records don't allow us to review on a 2,500 population basis, but we are able to look at communities below 3,500 population. Frankly, much below that and you sometimes do encounter septic systems or other approaches rather than traditional waste- water treatment approaches. We did make 12,000 plus grants totally more than $5 billion to communities under 3,500 population under the Construction Grants Program.

Senator **Jeffords**. But you have no breakdown?

Mr. **Wayland**. No, sir, I don't.

Senator **Jeffords**. General Kelly, Senator Moynihan asked about your willingness to assist smaller projects. My concern is that the demands on your resources—with the wetlands policy that we have now which seems to broaden very extensively the workload that you have—and I wondered if you took that into consideration with your answer. Do you believe that you're going to have the manpower necessary to take care of the wetlands demands as well as to broaden out into other areas?

General **Kelly**. Our environmental engineering program, which includes wetlands, and a program to undertake improvements to water supply systems would use primarily different disciplines. For exmaple, our regulatory program for wetlands—which is a partnership with EPA through the administration of the 404 Program—uses many disciplines but primarily hydrologic and hydraulic engineers and biologists. In the case of administering any sort of a program related to water supply for small communities—if Congress and the Administration so choose—would most likely be through our contract management and our design expertise which is a different set of professionals.

Senator **Jeffords**. It all comes out of the same budget, right?

General **Kelly**. Yes, but then we'd have to—if that became a part of our program, have the commensurate manpower to administer that program, whatever that may be.

Senator **Jeffords**. Thank you, Mr. Chairman.

Senator **Burdick**. Senator Chafee.

Senator **Chafee**. Thank you, Mr. Chairman.

I was fascinated by your testimony, Mr. Wayland, in which you said that of 60,000 community water systems, of that number two thirds serve populations of less than 500 people— then I think you mentioned that 7,000 of those were trailer parks. I can understand that. But that leaves 53,000 serving non-trailer parks of which—two thirds is 40,000, let's do it from that point, 40,000 less 7,000 leaves 33,000 community water systems which serve less than 500 people.

We have a big problem here. I just wonder if your standards are too strict. I'll give you a little anecdotal evidence. The town where I go in Maine, is served by a very modest, small water company. Suddenly they announce that they require some mammoth sum of money in order to conform with EPA regulations. We've been drinking that water for 60 years and nobody seems to be suffering very much from it. You just wonder if the bureaucracy has gone wild.

I noticed somebody from Maine, Mr. Levy, representing the Maine Rural Water Association is on the next panel. He can add spark to the comments on this.

Have you thought about that? It seems that the water requirements for the city of New York, or Omaha, or Providence, Rhode Island, or Pawtucket are somewhat different than what they are for a very small community. Could you give me any input?

Mr. **Wayland**. There is a basis on which the Safe Drinking Water Act can differentiate by population essentially through the exercise of variances where. In our development of maximum contaminant limits, we consider levels that are protective of human health and are achievable by a moderate sized community water supply system. If we were to, in effect, use the least common denominator approach, we could see substantial under protection of areas in which it would be quite affordable to accomplish more.

The mechanism that the Safe Drinking Water Act makes available is a variance mechanism. We have not yet exercised that mechanism on any broad scale basis, but are considering how we might do that such that there are would be requirements, above a no treatment requirement, that could apply in the case of a community that is unable to achieve the maximum contaminant limit.

I should also say that we're spending a considerable amount of time and energy looking at the potential to scale-up for use in these very small systems, some of the point-of-use or home treatment system technologies that have been developed such that there are lower costs. The estimates that we use for medium and large systems which assumes that there is a building, a shower in the building, and so forth for a system operator. These assumptions are clearly not appropriate in the case of some very small communities. We think there are lower cost technologies that can meet that need.

Senator **Chafee**. You mentioned several small community assistance programs. You have outreach of education programs—the National Small Flows Clearinghouse. Do the small communities avail themselves? I just wonder if the water system that I'm referring to has ever heard of the National Small Flows Clearinghouse.

Mr. **Wayland**. The National Small Flows Clearinghouse, which was developed principally as a waste water treatment technical assistance arm, I think has enjoyed a great deal of action, if you will, on the part of its client community of small waste water treatment facilities.

I think in the Drinking Water Program, because the regulatory requirements are coming on line at a much more rapid pace than was true in the past, we clearly have a major job on our hands to communicate with the systems that are affected by these rules. We need to make them aware of the assistance that is available and to try to make sure that our State partners in this endeavor are able to achieve some level of not only awareness of the rules but some ability to understand how to comply with them.

We are looking, in addition, to water supply agencies and health departments in States, the Public Utilities Commissions, which in the case of Maryland and some other States have been quite creative in looking for ways to stop nonviable small water systems from being initiated in the first place—that the new trailer park kinds of situations don't exist in the first place. These State agencies are looking at requiring consolidation so that some of these economies at scale can be realized. It may not always be possible to pipe everybody together, but circuit rider operation and maintenance of these small systems is something that can achieve significant cost savings.

I couldn't be sure, Senator, that we've reached that small community that you referred to. I think we have a long way to go in those efforts.

Senator CHAFEE. I see my time is up, Mr. Chairman.

Thank you.

Senator BURDICK. Carrying that line of questioning a little further, what do you tell a community of 100 people or 150 people in North Dakota? What do you tell them? They can't afford to do all these things? What should I tell them? They can't get any help from the Government, so what should they do?

Mr. WAYLAND. Senator, our analysis does show that although there are problems for many communities, the task is not insurmountable for all. There are, in addition to EPA's program requirements, other Federal assistance programs which may be available in circumstances like the one mentioned, through Farmers Home, for example.

Senator BURDICK. Name one.

Mr. WAYLAND. Well, the Farmers Home Administration does have a program which assists, at a relatively modest scale, the small communities that need either grants or loans to meet water or waste water treatment requirements.

Senator BURDICK. I think your answer is correct. It is a modest amount. I think we have a problem with our small towns, particularly in the West, and throughout the country. We don't meet their needs in this bill. I think many of us on the Committee would like to see some corrections so that it would take care of some of those small towns. They are just as important as the large towns as far as this country is concerned.

Mr. WAYLAND. I would agree with that, Senator.

Senator MOYNIHAN. Mr. Chairman, may I just ask a question?

Senator BURDICK. You certainly may.

Senator MOYNIHAN. Did I hear Mr. Wayland say that you have a requirement that these facilities have showers in them?

Mr. WAYLAND. In our cost estimates of what it will take a community to meet the requirements, we of course, look to compliance with other Federal requirements, including OSHA requirements, when we develop cost estimates. There is no EPA requirement that such a facility be available, but we think that's reasonable to include in the kind of cost estimates that we develop—for most systems.

We also think that that is not a reasonable expectation in the case of a utility that will be serving fewer than 100 people.

Senator MOYNIHAN. That's generous of you.

You actually expect that—maybe they do, I haven't been in a water plant in a long time—showers?

Mr. WAYLAND. There are of course——

Senator MOYNIHAN. Do you have pool tables?

Mr. Wayland. There are a number of chemicals used in the water treatment process, including chlorine in many instances, and there is a safety need to be able to do eye rinses and otherwise get people decontaminated if there is an exposure to some of the chemicals used in the process.

That's the basis for that consideration. I wouldn't assert that for a large water supply system, that represents a significant part of the cost, but when we try to build a cost estimate up, then we want to look realistically at the full range of associated costs, including a building to put the treatment facility in.

Senator Baucus. Mr. Chairman, I might ask one question here.

Mr. Wayland, is it true, according to your analysis, that very small communities face a disproportionate economy of scale in attempting to conform with the basic environmental statutes that we're talking about?

Mr. Wayland. That is correct, Senator.

Senator Baucus. If that is true—and my sense is that is true—is it better public policy for the EPA and the various regulatory agencies to grant waivers and to relax the standards for these very small communities, or in the alternative, is it better public policy for the State—in this case the Federal Government—to provide financial assistance so that these smaller communities are back on a "level playing field" so that they no longer face practically a disproportionate economies of scales problem? Given those two alternatives, which is the better public policy, do you think?

Mr. Wayland. I have presented the Administration's position on the proposals that would take the latter course, so I——

Senator Baucus. What is your personal view?

Mr. Wayland. Personally, I think we should work hard to explore two other alternatives which you did not mention. Two additional alternatives would be private financing for some of the infrastructure that is needed. We are seeing a fair amount of that on the drinking water side of things. Additionally I think we ought to——

Senator Chafee. Could you mention that one again, please? I missed the first one. What did you say?

Senator Baucus. Private financing.

Mr. Wayland. Private financing.

We are seeing situations in which private vendors are offering the construction of packaged drinking water supply plants and their maintenance and operation on a turnkey basis.

Senator Baucus. But again, what about the very small communities that are isolated and face great distances—

Mr. Wayland. It is my understanding that there are providers of drinking water services which are looking even to very small communities in rural areas. I think that is a viable option which will not need——

Senator Baucus. What is the other option you had in mind?

Mr. Wayland. The other option is, frankly, consolidation—mechanisms to basically take what are probably not viable systems because of their size and consolidate them.

Senator Baucus. How are you going to bring all of Jordan, Montana with Circle, Montana? Have you ever been there?

Mr. Wayland. Clearly, it won't work in all cases.

Senator **Baucus**. In many cases.

Mr. **Wayland**. Although, in addition to physical consolidation, there is the opportunity to share services of certified operators of systems. We are seeing that situation taking place.

Senator **Baucus**. I'll accept, to some degree, those two additional alternatives that you gave me.

Let me go back to my question. If we're faced, essentially, with the two alternatives that I gave you, namely relaxation of standards for smaller communities on the one hand, or additional appropriate Federal assistance—because we're imposing the burdens—appropriate Federal assistance to a level of the economies of scale—given those two alternatives, which is preferable?

Mr. **Wayland**. I personally would have real discomfort with very broad scale use of waivers or variances.

Senator **Baucus**. Thank you.

Thank you, Mr. Chairman.

Senator **Burdick**. Well, we are left at an impasse. Some small town out in Western North Dakota, 100 or 150 people— there are people willing to put in the water system, but they can't pay for it. What do they do? What do they do?

Senator **Chafee**. Well, Mr. Chairman, let me just say this. People were building water systems long before the Federal Government ever came along to provide the money for it. Somehow the idea that nothing in this world, in the United States of America, was created in the form of an infrastructure before the Federal Government came along I find a little disturbing. The small community, whether it's the one in Maine I referred to or Circle, Montana, or wherever it is, were getting water before.

Somehow the idea that the solution to this problem is $1.5 billion from the Federal Government, which is broke and which is now trying to scale back in every form—there's another side to the——

Senator **Baucus**. Would the Senator yield?

Senator **Chafee** [continuing]. I know that because of the——

Senator **Baucus**. Let me just finish if I might.

Senator **Chafee** [continuing]. A very, very poignant argument can be made here. The little town—what are we going to do about it? I agree. I'm not blase to those concerns. We have some little towns in our State and I think the idea of consolidation doesn't make an awful lot of sense. You have a community way off in the middle of nowhere, and another community 40 or 50 miles from it. Consolidation does no good. I think—and I'm looking forward to hearing from the next witnesses—that more ingenuity can be used as far as supervision or assistance or even financing—you mentioned in your testimony that these little communities can't finance. They can't finance like the city of New York, Boston, or some large community. There ought to be ingenious ways of taking care of that. But I just don't think that the only solution to anything is to come to Washington, D.C., which is running around panhandling now from everybody else to get money to carry the debt we have.

Senator **Burdick**. The Senator from Montana.

Senator **Baucus**. I'm fine, thank you.

Senator **Burdick**. We have all kinds of solutions in the West, but if we pass some of this restrictive legislation, we can't use these solutions. Is that the problem?

Senator **Chafee**. It wasn't as though they were pumping sewage through the water pipes in the old days. There were some standards. My question is whether these standards make sense. Somebody down there dreams up a standard. Does it make sense? I don't know. I think we ought to look at the standards. That doesn't mean that we're running around poisoning people, but we ought to make sure that these standards have some common sense basis.

What about the States? Why don't we go to the States? After all, we talk about the Farmers Home Loan and $1.5 billion of—what was that amount? How much?

Mr. **Wayland**. $1.3 billion over the history of the Farmers Home Program.

Senator **Chafee**. That's not chicken feed. We put out Federal money. On the waste treatment, what's that been? I believe that's been over——

Mr. **Wayland**. Over $50 billion.

Senator **Chafee** [continuing]. Something like $52 billion. We have to start getting out of that. That was the agreement that we entered into in 1981. That ended. I don't think we should look on that as a peace dividend that we're going to start all over again in some large program.

Senator **Burdick**. Thank you, gentlemen.

The voice of conservatism is heard.

Our next panel consists of Edith Page, Infrastructure Project, Office of Technology Assessment; Mr. Stephen Levy, Maine Rural Water Association, representing the National Rural Water Association; Mr. Richard Sandberg, Minnesota Pollution Control Agency, representing the Association of State and Interstate Water Pollution Control Administrators; and Mr. Richard Torkelson, New York Department of Environment Conservation, representing the Council of Infrastructure Financing Agencies and the State of New York.

Senator **Burdick**. You may proceed any way you choose.

Ms. Page.

STATEMENT OF EDITH B. PAGE, INFRASTRUCTURE PROJECT, OFFICE OF TECHNOLOGY ASSESSMENT

Ms. **Page**. Thank you, Mr. Chairman. In a way I feel as though I'm preaching to part of the choir with what I have to say.

We didn't find anyone in the course of our work who questioned the need for health or environmental standards, but we did find a number of people who questioned whether any affordable means to meet the new standards exists, especially for small rural communities. Such towns often have very small economic bases, dependent on farming or mining—both highly cyclical—and the income levels are relatively low. Many are located in remote areas, as Senator Baucus was pointing out, and are not attractive to private investment. They are just too small. A number will have to build entirely new facilities to meet the standards.

I would remind you that the cost estimates that EPA, which Mr. Wayland referred to, were for meeting the standards of 1988, two years ago, and new standards have come on line since, and will continue to come on line.

Almost every State has established a Revolving Loan Fund, as required by the Clean Water Act. Most of these, however, contain nowhere near the resources necessary to finance the waste-water treatment facility construction needs, even of the top priorities for the State. We concluded that chances are good that a number of jurisdictions may be forced into, or will choose, noncompliance as their response to the new standards.

In fact, this has already happened in the small Texas town of Rocksprings. I'm going to tell you its story. The town needs a new waste-water treatment system, and its landfill, which still has plenty of capacity doesn't meet the EPA standards, which became effective last August. Constructing new facilities would cost each resident more than the value of the average home in the town, even with loans from Farmers Home, EPA, and the State, which has a good loan program. The town's only alternative to noncompliance turned out to be to unincorporate, because unincorporated areas aren't subject to the requirements. Rocksprings chose noncompliance not because they wanted to be in violation, but because they didn't have an alternative. The loan package did not come together.

This town is by no means unique. One really has to wonder about the wisdom of government policies that create such dilemmas for local governments without providing assistance.

Senator Chafee is correct, States could play larger roles in several ways. In my written testimony I included three maps at the back. If we take a look at those maps, you see in figure one that the States that would be most heavily affected by cutbacks in Federal aid are the very ones, including North Dakota and Montana, that have the fewest resources and large percentages of disadvantaged communities.

Looking at States from another perspective, as in Figures two and three, we see that States vary widely in the strength of their economic bases, an important consideration as Federal policy shifts increasing fiscal responsibility to State and local governments.

States differ, too, in the level of tax effort they exert, as shown in Figure three. A number of the States that would be heavily affected by cutbacks in Federal resources are among those that have low fiscal capacities and relatively high levels of fiscal effort, the very ones least able to help themselves.

Finally, small communities simply can't afford to have planning, technical, or financial experts of their own. Only some of the States have chosen to step in, through their environmental protection agencies, to provide assistance. More effort on the part of the States could really help the jurisdictions to make cost effective decisions.

I will comment briefly on each of the four bills that we were asked to consider today, because each one has some very attractive attributes that you might consider combining in your final legislative package.

S. 1296 includes consolidating rural water supply systems. That is certainly something that could be encouraged where it is feasible, because it assists with the problems of economies of scale and the compliance difficulties that many small jurisdictions have.

S. 1331 requires a 50 percent State match, a high level of effort. That is also a desirable feature.

The wider scope of projects and technical assistance programs eligible for funding under S. 2184 means that this bill meets a range of community needs.

Finally, S. 1514, Senator Bradley's bill, provides relief for other types of disadvantaged communities, including the large older cities where environmental facilities have not been adequately maintained and are in need, in many cases, of total reconstruction in addition to new facilities to meet higher standards. It also has the attribute of not costing the Federal Government additional dollars except through foregone enforcement fines.

Thank you for the opportunity to comment on the legislation, and we look forward to continuing to work with the Committee as you shape legislation.

Senator **Burdick**. Thank you.

The next witness, please.

STATEMENT OF RICHARD SANDBERG, CHIEF OF THE MUNICIPAL WASTE WATER TREATMENT SECTION, MINNESOTA POLLUTION CONTROL AGENCY, REPRESENTING THE ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS

Mr. **Sandberg**. Mr. Chairman, I am Richard Sandberg, Chief of the Municipal Waste-water Treatment Section of the Minnesota Pollution Control Agency.

I appreciate the opportunity to appear before the Committee on behalf of the Association of State and Interstate Water Pollution Control Administrators and the State of Minnesota. I want to share the views of State administrators on the assistance for small communities.

Infrastructure needs for waste-water, water supply, and solid waste are difficult issues for large and medium size communities, as we have discussed, but for small communities these needs can be monumental problems. With stiff competition for the limited Federal, State, and local funds, these infrastructure needs frequently cannot be addressed.

In Minnesota, 80 percent of our 854 incorporated cities have a population of less than 2,500. These numbers demonstrate the magnitude of the problem facing Minnesota. And all States have problems with financially hard pressed communities to some degree.

The extent of the fiscal impact that small communities face can be seen in examples in Minnesota. Priorities of the Construction Grants Program resulted in most of the money going to large cities, leaving waste-water treatment needs of many small communities unaddressed. In Minnesota, we have currently identified 70 cities with populations under 2,500 with waste-water treatment needs. Of these, half have a median household income that is 75 percent of the national median. For those that cannot afford a loan, the only option is to wait, as happened in Texas. The resulting threat to public health as well as statewide water resources is a serious concern.

Many small communities in Minnesota also need improvements for their water supply systems. There are over 700 water supply systems operated by communities in Minnesota, 75 percent of which serve populations of less than 2,500. These systems uniformly report needs for rehabilitation of aging infrastructures, remediation of water quality problems, and continuing maintenance activities. Age, as well as increasing detection of contaminants in the form of agricultural chemicals, volatile organic compounds, and other pollutants are creating demands for new water supply systems that small communities are hard pressed to meet.

The needs are clearly evidenced, as we've talked about today. There are several key principles that we would like to call to the Committee's attention as legislation is developed to meet the needs of the small communities.

First, it is important that the new legislation or funding not detract from the need to fully fund and implement the Clean Water Act State Revolving Fund Program. Assistance for small communities is critical, but not at the expense of the Clean Water Act SRF.

Second, the design of any new program should be an adjunct of the Clean Water SRF. Given that many States have already established SRF programs, this approach will avoid management inefficiencies and facilitate a coordinated strategy to accomplish our environmental goals.

Minnesota has proven the ability of States to manage State Revolving Funds. Under title VI of the Clean Water Act, Minnesota has implemented a program leveraging the Federal dollars received so that we can make loans for nearly three times the amount of our capitalization grant to address the waste-water treatment needs in Minnesota.

The third key principle is that States be given broad flexibility to tailor funding mechanisms to meet each States unique needs. The provisions for States to develop intended use plans allows for this flexibility but should be clarified so as not to be misinterpreted in the interpretation of the legislation.

Another issue relative to flexibility arose specifically out of the Small Community Environmental Assistance Act, or S. 2184. The act provides for the use of funds for grants to disadvantaged small communities. For small communities loans by themselves may not provide enough financial assistance to enable them to proceed with infrastructure improvements. The use of the Fund for grants combined with loans to achieve financial viability is important. Success of the program depends on the ability of the States to administer both aspects of the program together combining the grants and the loans.

In conclusion, a comprehensive approach to funding environmental program infrastructure is worthy of consideration by the Committee. However, such action should not undermine the Clean Water Act State Revolving Fund. States need to be allowed to establish priorities based on their specific environmental and public health concerns. The key to success lies with flexibility attained by giving individual States control over program design and operations which can be closely allied with the Clean Water Act State Revolving Fund.

Thank you for the opportunity to discuss these perspectives.

Senator BURDICK. Thank you.

Mr. Levy.

STATEMENT OF STEVEN LEVY, PROGRAM MANAGER, MAINE RURAL WATER ASSOCIATION, REPRESENTING THE NATIONAL RURAL WATER ASSOCIATION

Mr. LEVY. Mr. Chairman, my name is Steven Levy. I am the Program Manager of the Maine Rural Water Association. I am here today on behalf of the National Rural Water Association. I have written testimony which is on file, and I even prepared a written statement for today, but I thought [illegible] might be a better idea just to talk with Senator Chafee about [illegible] individual water system in Maine, and possibly that way we could explain some of the problems in Maine and the rest of America with complying with surface treatment rules, EPA regulations, and the decay of infrastructure.

Mr. LEVY. Senator Chafee, what town are you affiliated with in the summertime in Maine? Maybe I can talk a little bit about that.

Senator CHAFEE. Okay. It's Sorrento, Maine, and the water company is the Long Pond Water Company.

Mr. LEVY. I'm very glad to hear that it's a town that I've been working with and can speak from personal knowledge.

It was a calculated risk, but it worked out and will pay off.

The Department of Human Services in Maine mailed out 65 notices to surface water suppliers, the Long Pond Water Company being one of them, informing them that they had a surface water supply, and that by June of 1993 they must either filter their water, seek an exemption, or drill a well to comply. In addition to those 65 notices they also mailed out 180 notices to owners of campgrounds and youth camps also on surface water supplies informing them of the same thing.

Long Pond is an old water company. They have about 100 shares. They were formed around the turn of the century. As you're aware, it's basically a recreational community. They have a nice water supply to 167 customers. They're looking at an expense of somewhere between $500,000 and $1 million to comply with those rules. I've been speaking often with the Board of Directors of that water company.

One of the things that Maine Rural Water Association has done in rural water in Maine, like most of the Rural Water Associations in America, is to help small towns with their problems. Right now a critical need is financing. So I met with the Board, Mr. Ewing, et cetera, and they said, "What are we going to do?"

So one of the things that we have done was to go to the State Legislature and we created the Long Pond Water District, which is a quasi municipal water organization and will be eligible for Farmers Home assistance to comply.

Now then, this is a wise move if there's still going to be Farmers Home assistance available when they need to build. I have on my wall a hit list of people who need money. Long Pond is on there with about 24 other systems. Frankly, we can only count on anywhere between $10 million to $20 million a year from Farmers Home, and we're looking at, in Maine, at a financial requirement of somewhere between $300 million and $500 million. In Washington County alone, which is where Long Pond is, and in Hancock, I'm working with eight different water systems who are in similar straits.

The situation at Long Pond—if they don't set up a water system——

Senator CHAFEE. I'm delighted to have you cover my problem if you want to branch out a little broader than Long Pond Water Company, that's fine.

Mr. LEVY. I think Long Pond is a good example. I think a good way to explain the problem is to look at the Long Ponds of America.

Senator CHAFEE. In the course of your explanation, could you suddenly tell what's changed so dramatically that surface water now has to be filtered? It may be that the answer is that EPA requires it. I would like a step beyond that. Is it a sensible requirement? We're all thriving and healthy, having drunk Long Pond water for many, many years. Now maybe something dramatic has changed. I don't know. I don't want to beat Long Pond to death—but using that as an illustration, is surface water suddenly bad?

Mr. LEVY. Senator, the people at Long Pond, and the people in many rural communities in Maine, are wondering what's wrong with their water supply now. Most of the water systems are 100 years old, most are good, some aren't as good as Long Pond. There are a few systems down the road that do need help.

EPA came out with the surface water treatment rules and it was decided that any surface water supply has the potential for holding microorganisms that could create giardiasis.

Senator CHAFEE. That could create who?

Mr. LEVY. Giardiasis. Giardiasis is an intestinal ailment. It has hit many communities in America. It has hit two communities in Maine. So the explanation is that there is a potential threat of giardiasis in any surface water supply that is untreated. Therefore, all surface water supplies must be treated. In Maine, there were two outbreaks, one in Dover Foxcroft and one in Ellsworth.

I have always been reluctant to tell a community with a surface water supply not to treat the water or not to go to ground water because I know that there is a chance that giardiasis could happen.

So this has been looked at as "cheap insurance" against giardiasis. My basic criticism is that this is not cheap insurance. This is very, very expensive insurance. In fact, many of the towns in Maine, and many of the towns in America, simply cannot afford to comply.

We're looking at water rates in these small towns of over $600 a year. I don't know if these towns can afford that kind of insurance.

I would like to read one paragraph today.

Senator CHAFEE. That statistic you gave, Mr. Levy, is that to amortize the debt to put in the equivalent, or is that operating expenses with the equipment in there?

Mr. LEVY. In my oral testimony today, I have a short story about——

Senator **Chafee**. What about the $600 figure?

Mr. **Levy**. It's amortizing the debt and operating and maintaining the plant. Winter Harbor, which is not that far away, also has a private water company. If they were to borrow money today—number one, banking would be extremely reluctant to make a large loan to a small private utility—but if they were to borrow money today, they would need in the neighborhood of $750,000 to comply. They would do well to get money at less than 12 percent for 20 years. That's $100,000 a year for principle and interest on that note. That doesn't include all the new costs that they're going to have for treating the waters, for chemicals, for power, for an operator, or for getting rid of the waste that's going to be created by this treatment process.

Winter Harbor is looking at $600 a year for water. Again, that's only the surface water treatment rules. EPA is soon going to be coming out with disinfection byproducts with radon. It doesn't get into the sewage treatment regulations or the solid waste regulations.

Small towns in Maine and small towns in America need your help because they simply cannot do it.

Senator **Moynihan**. What did you say about radon?

Mr. **Levy**. There are rules that are going to be coming out sometime from EPA on radon removal and safe limits for radon in drinking water. This will also be a new expense in the future.

Senator **Moynihan**. It's getting to be awfully costly water, isn't it?

Mr. **Levy**. I think that sentiment is shared by many.

Senator **Moynihan**. Radon is a naturally occurring form of radiation, isn't that right, Ms. Page?

Ms. **Page**. Yes, it is. There has been a good deal of discussion about where the requirements should be set because the initial proposals by EPA have the levels set at a lower level than occurs naturally in the background radiation that enters the water supply in many jurisdictions through the ground.

Senator **Moynihan**. I mean that the species has been living with this for——

Ms. **Page**. That's right.

Senator **Moynihan** [continuing]. For several hundred thousand—how old is the species? I get mixed up on that. [Laughter.]

But here we are still. All those years without EPA. They're going to kill these small towns. Six hundred dollars per household—is that what Mr. Levy said? You can't have a $600 levy for water in the small towns of upstate New York.

Mr. **Levy**. That's right.

Senator **Moynihan**. That's madness. We have the best water in the world anyway.

That's one thing we do have in New York City, plenty of water. That's kind of nice. Right, Mr. Torkelson?

Mr. **Torkelson**. That's right.

Senator **Moynihan**. Yes.

Senator **Chafee**. Mr. Chairman, it seems to me that what we have here is the classic situation of what could be a cost benefit problem. There were two cases of giardiasis in Maine, did you say?

Mr. Levy. There were two. Senator, there were two outbreaks of giardiasis.

Senator Chafee. There were two outbreaks of giardiasis. I don't know what giardiasis is.

Senator Moynihan. You haven't been ambassador to India. [Laughter.]

Senator Chafee. I'm not sure of the severity or what can be done about it, but somebody says, "Okay, to straighten this problem out is going to take $300 to $500 million of somebody's money." So they come here to the Federal Government. The question is, I think we ought to consider more alternatives as we wrestle with these problems. Is that the best use for $300 million to $500 million, or could that money be better spent in proper prenatal care for expectant mothers in the State of Maine, for example? Or maybe it could be used for proper nutrition for those mothers?

Senator Moynihan. It's called an opportunity cost by the economists.

Senator Chafee. Instead, we plunge ahead and nobody makes that analysis. I think that, as we get into these days where money is tight, instead of blithely saying, "That's fine. That's what the requirements are. We aren't going to look at the other benefits that we might get with this money as far as the help of those individuals." You're talking on behalf of the State of Maine when you mention the statistics. These statistics apply to Maine. The estimated cost of compliance in Maine is between $300 million and $500 million for this rule alone, never mind other rules. I'm not sure if that is to give 65 communities with surface water supplies water filtration. That has nothing to do with the operating, I presume.

Mr. Levy. That is correct.

Senator Chafee. We still have the chemicals and the people there. Long Pond Water Company has 160 customers, one person hired full time to watch the filtration—I don't know whether that makes sense, or whether it would be better to have that person, somebody at that salary going around trying to give general help care for 160 families in that area. They really need it.

Mr. Chairman, I'm not going to prolong this except to say that I think more and more we should spend time in these cost benefit analyses and try to get the best use of Federal money that we can, particularly in the health field where the money is so desperately needed.

Senator Moynihan. This isn't even Federal money. We're imposing it, though.

Senator Chafee. We're levying the requirement. We're the ones that make them stringent.

Senator Moynihan. But it's easy to——

Senator Chafee. I'm not slighting giardiasis. I don't know anything about it or what it is and whether there are other ways of handling it. Thank you, Mr. Chairman.

Senator Burdick. Do you know any other way of handling it?

Mr. Levy. Carefully.

Senator Burdick. Carefully.

Mr. Levy. Mr. Chairman, the other point that I wanted to make is that these small towns will not even be able to comply with these rules if they were to borrow money at zero percent interest.

All of the expenses are high, and when you divide a high cost by a small number of customers, it's just too much.

Thank you.

Senator **Burdick**. Thank you.

Mr. Torkelson.

STATEMENT OF RICHARD TORKELSON, NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION, REPRESENTING THE COUNCIL OF INFRASTRUCTURE FINANCING AGENCIES

Mr. **Torkelson**. Thank you very much, Mr. Chairman, Senator Moynihan, Senator Chafee, and other members of the Committee. I'm very pleased to be here.

I'm here today representing the Council of Infrastructure Financing Agencies, I am a Deputy Commissioner for New York State's Department of Environment Conservation, and I am also chair of the newly created EPA Environment Financial Advisory Board. One of my work groups is dedicated toward working on small community alternatives. The Board is in existence for only six months.

I have also had the pleasure of leading New York State's effort to create the State Revolving Fund (SRF), so I would be glad to answer any questions you have regarding SRF's.

Very briefly, since there are only a few minutes, we have submitted testimony for the record. I'd like to have that introduced. I will summarize it very briefly.

There are several very important ideas contained in the various bills before you. We strongly endorse the State Revolving Fund model as the basis for a small community program. As State run permanent public banks, they would be uniquely situated to craft and develop a variety of assistance on an as needed basis.

Another essential idea we support is the authority of the proposed small community pollution control revolving funds to finance several types of environmental infrastructure. This makes sense because needs are rising across the board for water, waste-water, and solid waste facilities. Multiple eligibilities also encourage integrated planning and scheduling of capital construction and add significantly to State operating flexibility to best meet the needs.

The legislation also recognizes that small community financing issues are not solved by simply throwing money at them. Technical assistance or outreach is fundamentally important to the success of any financial assistance program and should be both complementary and integral to its funding decisions.

We believe the Committee's consideration of these bills offers an outstanding opportunity to apply lessons learned from the Clean Water Act title VI Revolving Fund experience.

Generally, the legislation provides for an instrumentality or entity of the State to administer the revolving fund. While this provision is similar to that of title VI, it has been made abundantly clear, from the process to date, that EPA has strong preferences as to which State agency should receive the capitalization grant, even to the point in one State of explicitly overriding the decision of the Governor. We suggest that any SRF legislation make it unquestionably a prerogative of the State with respect to which instrumentality shall administer the fund so long as it has the necessary powers to operate it in accordance with statutory requirements.

Earlier this year, CIFA, Council of Infrastructure Financing Agencies, conducted a survey of State officials involved with implementation of title VI. We received responses from 89 percent of the States that have received capitalization grants to date. Essentially the survey posed certain amendments to controversial provisions of title VI and we believe the findings are relevant to the proposal for small community revolving funds.

First, how and when Federal grant funds are transferred to the SRF—ideally, we believe the grant payments should be made on some predictable schedule in the form of cash. This was the original notion of title VI to quickly capitalize the fund, lend stability to their operation, and promote leveraging. Disbursing cash in advance of actually incurring costs is particularly important to many small communities which, for a number of reasons, may need cash up front. If the present letter of credit approach is employed for the small community revolving fund programs, we urge that cash draws by the SRF be allowed at the time it enters into binding commitments with a community.

Our survey also posed a small community amendment to title VI providing for loan amortization up to 40 years—one of the bills suggests 30 years—and for deferral of the repayment of principle and interest up to five years—one of the bills suggests three years. This prompted the greatest diversity of comment from the respondents, indicating varying State policies and perceptions. It also sharply underscores the need to build in flexibility for each State to run the program as it sees fit.

One specific example is found with the definition of small community. We found very little agreement among the States as to what is a small community, with suggested populations ranging up to 50,000. Given this difference of opinion, our suggestion is to allow each State to define the population of a small community eligible for assistance.

I could go on with a couple of other things, but as a closing point, we would like to emphasize that the Committee's approach to the small community issue should also address some of the far reaching effects of the Federal tax policy which has had some impact on the State Revolving Funds in general. Present restrictions affecting the purchase and sale of tax exempts and the use of their proceeds all serve to boost the capital costs of environmental infrastructure.

We have attached for the Committee's consideration CIFA's statement to the House Ways and Means Committee regarding Federal tax issues which would be helpful to improve the environment.

With that, I'd be glad to answer any questions that you may have.

Senator BURDICK. Thank you.

Senator Moynihan.

Senator MOYNIHAN. I thank Mr. Torkelson for that last point. We need to address that in the Finance Committee positively. What would you want us to do, just lift the cap a bit? What would you hope? Should we just go back to limited funding?

Mr. **Torkelson**. I guess if you asked me personally, I'd like to see environmental infrastructure elevated to a level where most of the restrictions on tax exempt financing would be lifted much along the lines of Senator Domenici's bill, namely, if the Federal Government mandates certain environmental facility's construction to meet mandates and standards, that they be allowed to be freed up from some of the restrictions. I would go further and also argue that, since many States have more restrictive standards, we should also allow for State mandates to be included.

Senator **Moynihan**. Could you send us some more detail in that regard?

Mr. **Torkelson**. Yes, sir.

Senator **Moynihan**. We have resolved the point, if we report out legislation, that mandates that the other people will spend money.

Mr. **Torkelson**. That's correct.

Senator **Moynihan**. Really it would be surprising how free and easy we are in that regard. The pleasure of spending someone else's money is hard to resist. [Laughter.]

At a minimum, we should incur some of the costs that go with tax exempt financing.

Mr. **Torkelson**. Yes.

Senator **Moynihan**. I would think.

Mr. **Torkelson**. I agree.

Senator **Moynihan**. Treasury won't, you can make sure of that.

Mr. **Torkelson**. Absolutely. My Infrastructure Finance Board that I just mentioned—we had Treasury on it. When they saw our first draft environmental tax policy statement, they withdrew.

Senator **Moynihan**. They withdrew? [Laughter.]

I guess they just didn't want to be around.

Mr. **Torkelson**. They have an historical perspective which they feel should be objectively presented, I guess, to Congress and the Administration.

Senator **Moynihan**. That perspective being the word "No". [Laughter.]

Mr. **Torkelson**. That is correct.

One of the things that we tried to do in creating our State Revolving Fund was to address the small community issue. We picked a population of 2,500, which is coincident with one of the bills. What we did was to put in a statutory provision that said any community with a population of 2,500 or less, $1 million project or less, shall be eligible for direct loans from our State Revolving Fund. Our State Legislature increased that to $4 million. I'm happy, Senator, to announce, we are borrowing $166 million dollars for our first State Revolving Fund loan for New York City today. I might also let you know that because of the provisions which you helped craft in that legislation regarding cash payments we were able to get USEPA approval of aggressive leveraging which results in cash transfer of money through our title VI grant.

This has worked famously and has enabled us to craft a revolving fund which has resulted in a rating for the State revolving fund above the city's municpal water finance authority's rating. We expect that our pools for the rest of the State will be at AA—higher than the State.

So cash—one of the issues I mentioned—cash payments to State Revolving Funds can enable us to be more creative and, in fact, reduce costs to our municipalities when they borrow those moneys by giving us better opportunities to craft a program that gets higher ratings.

So our pools will include non-rated and unrated municipalities. In our second round we expect to get a AA rating for that, further reducing the costs.

Senator MOYNIHAN. The Chairman of this Committee has always gone on about North Dakota and all the wonderful things that happen up there. I'm going to take the opportunity to point out that the first true aqueduct in the world since the Alexandrian aqueduct in the 4th century was built by the city of New York, sir. It brought water from almost as far west as North Dakota. [Laughter.]

Under the Hudson River. It went down so deep that they produced water pressure that would go up five floors in Brooklyn. That's where you got Flatbush and the Bronx from. They are absolutely energy free. Not a drop of energy is used. It's about the best water system in the world.

Mr. TORKELSON. I agree. A section of that is on our historic register, too. It's being maintained—a section of that aqueduct.

Senator MOYNIHAN. I thank you for that.

Ms. Page, tell me about radon. Is it coming in our lives?

Ms. PAGE. There has been a good deal of discussion about what the appropriate level for EPA standards for allowable natural radon in the water would be. Their first proposals were for levels that were lower than the radon that occurred naturally in the water of a number of States. Iowa, for example is on rock, and there's a fairly high level of natural radon already in the ground water. The possible ways of eliminating radon from ground water——

Senator MOYNIHAN. That would be fine.

Ms. PAGE. The mind boggles.

Senator MOYNIHAN. That's a joy. To do it for a town with 1600 people.

They could all have work. They'd all be working in the plant. That would solve the unemployment problem. [Laughter.]

There would be no more rural unemployment. Everybody will be working in the water treatment plant.

Ms. PAGE. Senator, if I could raise one side issue that hasn't been directly focused on—when I said that one had to question the wisdom of Federal standards that exacted a very high degree of performance and didn't provide assistance, I perhaps should have mentioned that the EPA seems to focus on enforcement in the case of communities not meeting the standards. I submit that this is a double whammy, to impose standards that are higher than many communities can afford to meet in the first place and then fine them for not meeting the standards. It raises questions about responsible Government.

Senator MOYNIHAN. Ms. Page, I'm sorry to take issue with you, but you are behind the times. You heard my exchange with Senator Bradley earlier on?

Ms. PAGE. I did in fact hear that.

Senator **Moynihan**. The idea of levying fines would just absolutely resolve the question of no new taxes.

Ms. **Page**. That could eliminate the need.

Senator **Moynihan**. We'll just fine everybody $1,000 for having radon in the water supply. Mr. Sandberg, do you agree? [Laughter.] Be careful. [Laughter.]

Mr. **Sandberg**. We've looked at that in Minnesota, too. It is a source of funds for us sometimes, too. Those are difficult issues to deal with.

Senator **Moynihan**. We may have had a revolutionary insight. I think we'd better get on with this hearing so I can get on the phone to the White House and tell Mr. Sununu that maybe we have the answer. We'll just fine them all. [Laughter.]

And we'll fine ourselves into solvency.

Mr. **Torkelson**. And if you don't do that, we'll create more jails and put everybody in them.

Senator **Moynihan**. You create more jails and that creates more jobs.

Mr. **Torkelson**. Absolutely.

Senator **Moynihan**. Never underestimate that.

We thank you very much. We have a bigger problem than we realized. We want to be good natured about it, but what you say is so clear, that we have fallen into this pattern of mandating things. If you don't have to pay for what you mandate, you can be very persnickety about things. You can set standards which you wouldn't pay for but you're willing to have other people pay for. You put into jeopardy institutions—I see a small town which used to have a certain status—in American folk imagery anyway—and there still are some around. They're very nice places to live if you don't have to—I've been around New York State for a long time and very few people have collapsed from giardiasis in New York State in my awareness. The idea of the chance encounter—raccoons do more harm than that, if anybody knows—but in any event I thank you all very much for this matter.

Mr. Chairman is coming back.

Mr. Chairman, I think we've heard some very good testimony here. I'm sure you want to thank the panel as I have just done.

Senator **Burdick**. I most certainly do.

Mr. **Torkelson**. Thank you.

Mr. **Sandberg**. Thank you.

Mr. **Levy**. Thank you very much.

Ms. **Page**. Thank you, Mr. Chairman.

Senator **Burdick**. The next panel will be Dr. Robert Johnson, North Dakota League of Cities, representing the National League of Cities; Mr. William Leonard, Midwest Assistance Program, Whitefish, Montana; Sharon Lawrence, National Association of Towns and Townships; and Mr. Allen Hammer, Virginia Department of Health, representing the Association of State Drinking Water Administrators.

You can proceed in the order in which I have introduced you.

STATEMENT OF ROBERT JOHNSON, EXECUTIVE DIRECTOR, NORTH DAKOTA LEAGUE OF CITIES, REPRESENTING THE NATIONAL LEAGUE OF CITIES

Mr. JOHNSON. Mr. Chairman, members of the Committee, I am Robert Johnson, Executive Director of the North Dakota League of Cities. I am here today to testify on behalf of the National League of Cities and the 16,000 cities and towns across the nation we represent as well as for the 366 cities and towns in North Dakota.

In addition to the comments that I'm making here, we've submitted written testimony and also testimony from the states of Minnesota and Illinois that are reflective of states that have a number of small cities in them. I'd also like to commend you, Senator Burdick, and Senators Bentsen, Baucus, and Bradley for the work that they've done to try and solve a problem here in our country that we all face.

One of the things that we must look at when we look at the Revolving Loan Fund is the ability of cities to pay that money back over a period of time, especially when we have the cost of Davis-Bacon, the accounting and reporting procedures that must be met, also the impact that comes from other infrastructural needs that are related to that.

Specifically, in regard to impacts on small distressed cities, the economies of scale, as was already mentioned, comes into play here, especially in North Dakota. We have nine people per square mile on the average. Of the 366 cities we have, about 340 of them that are under 2,500 [population]. So it really places a tremendous burden on a State like North Dakota.

In addition to that, I'd like to indicate that there are levy and financial limitations placed on cities by States as to their ability to raise revenue even if it were available.

Also in North Dakota there are 180 cities in which the average income that is 75 percent of the Federal median income. So, again, it places a hardship on us. In addition, I might say that there are many people there who are on fixed incomes, are older than average, and also are underemployed.

Some of the suggestions that we would like to make on behalf of the National League of Cities and the League of Cities in North Dakota—first, of all to analyze the need for the rules that are being promulgated by EPA in the first place. Are they absolutely essential? We've already heard that.

Also, one of the things that might be looked at is that part of the moneys going into this program be used in the form of grants rather than all revolving loans because many cities cannot afford, as already indicated, to repay those moneys.

We possibly could even support statewide user fees as one possibility of responding to this need if, in fact, that need is there to the degree as already indicated. We also need to consider making States responsible for the accounting and recording procedures because many of these small cities simply cannot do that.

I would also suggest, in keeping with what NLC suggests as well, that we prioritize environmental goals. We can't meet all of the goals at one time especially when we consider the enormous costs related to that. And any money that's being made available through revolving loans or through grants should be flexible in nature so that we can do a number of things with those moneys.

For example, in North Dakota, in the landfill area, we've worked very closely with our State Health Department. We've gone from 110 permitted landfills in 1987 down to 65. We're working now with the State Health Department to try to consider how we can close 58 landfills when we're talking about $5 per yard to close them. Again, this is to meet environmental standards.

These are monumental problems for small cities in a State like North Dakota. We work toward regionalization. We're working toward source reduction. But we must remember that every time we have source reduction, we have to have markets for those things that we're recycling or trying to do something with. We know that those things which have inherent value in and of themselves we can recycle. But what about paper? Where are the markets? We need to go to the paper markets and ask them to recycle the paper that they produce.

Also, one of the other things that's related to this whole area is the Garrison Diversion Project in North Dakota. Had the Garrison Diversion Project been funded as was proposed, many of the water problems that we have in the State of North Dakota would be rectified. We have 113 cities that we indicated as having critical needs either in the case of water quality, water quantity, or both. Those needs would have been met if the municipal rural and industrial part of Garrison Diversion had been funded. We feel that Garrison Diversion is an extremely important part of our State and would redistribute the water where it's needed to the people who need it.

I think in the spirit of cooperation that's indicated by those who have presented these bills, along with the States, and along with the cities of this great country, we can meet the needs of the environmental goals that we have.

I, again, commend you for the work that you're doing. We want to have the local units of Government involved in any decision that's made in this area.

Thank you very much for allowing me to appear before you today.

Senator BURDICK. Thank you.

Next.

STATEMENT OF WILLIAM LEONARD, FIELD REPRESENTATIVE, MIDWEST ASSISTANCE PROGRAM, WHITEFISH, MT

Mr. LEONARD. Mr. Chairman, My name is Bill Leonard, and I am from Montana. I am employed by the Midwest Assistance Program. I am their Field Representative in Montana. We work with 30 plus small rural communities. My meetings with those communities are in fire halls and pump houses. If you'll realize that—I don't like statistics, but half—half—of the incorporated towns in Montana are smaller than 500. The size of 2,500 approaches a city in Montana.

I emphasize that because these small rural communities—this hasn't been pointed out earlier here this morning—these rural communities really missed out to a significant extent in earlier Federal programs. They didn't miss out by design—although certain programs such as the EPA Construction Grant Program was truly directed at the largest pollution problems of the time—so consequently the smaller populations and the smaller towns weren't directly targeted. In fact, a figure I have is that only 11 percent of the EPA Construction Grant Programs went to rural communities; that's not 50,000 populations, that's small rural communities.

These communities, then, generally don't have the modern infrastructure facilities that your bigger cities do. They just aren't there at this point in time. There is also, of course, in a small community, a very strong tendency to be ultraconservative. Reserves really aren't part of the normal vocabulary in small towns in Montana or throughout the Midwest that I'm aware of. As a result, these communities are coming in virtually penniless. If anything, the small community had a proud attitude of not accepting Federal programs, if they knew about them, which they probably didn't. In many cases they were not aware. Our technical assistance effort has only recently really become strong in the Midwest States.

These people now are hit with not just putting in a water system. But the mayors, the council members, or the Board of Directors of water and sewer districts are being hit with what I call a "triple whammy". They're hit with not only the water issue which has been so clearly discussed, but also with the need for sewer systems. Most of these communities have been on individual septic systems, and they're just now becoming too populated, Mother Earth is becoming too saturated, and septic leachate is reaching the well water. They have monstrous problems. In some of those communities the old town dumps have to be covered over real soon or they're going to be in big trouble there. That's a triple whammy if I've ever seen one.

Then, on the other hand, Federal assistance is dwindling. Hopefully we are going to do something about that, but assistance has been dwindling.

I would like to point out that there is no economy of scale. Senator Baucus, I think, made that point also. Many of our communities are so far apart—40, 50, or 60 miles to the next community doesn't really allow for combining water systems or waste-water treatment plants. There is no interest in private financing of a small community under 500—certainly none that I have found.

I would encourage you to look at what I call target rate structuring as opposed to strict dependency on income levels. I think income levels are not pertinent, that is to say targeting assistance to the low income. I think maybe that's easy here in the halls of Congress to talk about. It's almost appealing. But when you get out in those little communities and start asking people what their income level is, and you have to run independent income surveys, it's really hard to work with average incomes. It's a very complex issue.

I guess, to underscore what's been said, but maybe I can put it in a different way—we have a big problem, a truly big problem across America. Little Town America is really hit hard by our environmentally driven regulations. I appreciate all the interest I've seen at the hearing this morning, but I wonder if we're really giving it its proper perspective.

I wonder if we shouldn't be looking at it as something truly big like—how about the interstate highway system back when? I don't recall that there was a lot of money around back then. I don't recall that we had this abundance to spend. Correct me if I'm wrong. It's this way most any session, isn't it? Money is tight. But maybe we're looking at a really big issue here that needs to be addressed. Sure every State could have built its own highways back then, but they didn't. There was a need for a Federal system.

Certainly there are some other monstrous projects that have taken place—I'm suggesting that small community infrastructure should be upgraded by dedicating a program to truely deal with the problem.

Thank you, sir.

Senator **BURDICK**. Thank you.

Next.

STATEMENT OF SHARON LAWRENCE, DIRECTOR, FEDERAL AFFAIRS, NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS

Ms. **LAWRENCE**. My name is Sharon Lawrence and I'm Director of Federal Affairs for the National Association of Towns and Townships. On behalf of the 13,000 members of my association who are mostly small, mostly rural local governments, I really do want to thank the Committee for the tremendous job that they're doing in taking the leadership and stepping forward on this important issue. I would also like to say thank you to Senators Bradley and Bentsen, who is not here today, for their leadership in this area.

I have a lengthy statement which I'd ask to be included in the record.

Since I'm one of the last witnesses, I'm just going to zero in on a few points that have already been talked about fairly extensively, or fill in a few areas that I think need to be amplified for purposes of this discussion. I do want to say that I think the Office of Technology Assessment, in their report on State and local public works financing and management, did an excellent job of setting out the issues and making some recommendations to this Committee and to Congress. If people have not read that report, I would encourage them to do so.

Since our organizational focus is on small communities, I'd like to add a few points here to target in and explain why, in particular, small communities have more of a problem and why their financial needs may be greater.

I did some recent looking at U.S. census statistics. Municipalities over 10,000 in population have 19.1 percent of the U.S. total population, yet they only receive 9.1 percent of the intergovernmental revenue that is allocated across the United States. Compare that with communities of over 300,000 in population. They have 27.6 percent of the United States population, but they receive 53.9 percent of the intergovernmental revenue. Clearly, there is a disproportionate impact. Even if we just allocate money on the basis of population, small communities may not be getting their fair share.

Also, I'd like to talk briefly about declining Federal aid. The General Accounting Office, for Senator Sasser and Representative

Weiss, recently prepared a report analyzing the intergovernmental trends over the last 10 years. That report examines the changing aid patterns which have developed. Overall Federal aid to State and local governments is down 1.6 percent over the period 1978 to 1986. However, when you look further at that, Federal aid to States is up 1.3 percent, but aid to local governments is down 5.5 percent.

Why? There's a shift in the type of aid that the Federal Government is now giving. Now there is a shift to safety net programs for health and welfare and away from infrastructure. So the situation is much different than it was 10 years ago.

In talking about small communities, I'd also like to point out an average community of 2,500 has about $1 million in revenues. But I think you also need to look at the fact that small communities tend to stretch their dollars, therefore they have a lot fewer employees and they have very few specialists to cope with the amount of problems that they're dealing with.

I looked at statistics for the 20 States with town and township governments. Nationally, only 55 percent of their employees are full time. For every 10,000 people in those town and township States, townships have only 5.1 full time equivalent employees. I now live in Baltimore, a city of about 700,000 people and, because of the school funding, about $1.9 billion budget. They have 29,000 employees. By comparison, that's a big disparity in the amount of specialists that you have to deal with, and the amount of people.

In small communities they tend to make a lot more use of volunteers. They have elected officials who step in to do a lot of work, therefore the types of programs that you need to design should be different. What is causing particular problems here is the level of sophistication that small communities simply don't have the expertise to handle.

One of the things that I'd also like to mention that we've already talked about is the regulatory burden. Senator Chafee and the other gentleman had a good exchange which highlighted those problems. But I'd also like to point out that this isn't just a simple problem in the environmental area. If you are a small community, the problems that you are having right now with Federal regulations on your landfill, your waste-water system, or your water system, are only a small part of your problem. All across the spectrum the Federal Government is mandating many, many more requirements. Right now local government employees are having to get commercial drivers licenses because of Federal mandates in the Commercial Motor Vehicle Safety Act of 1986. There are also tremendous expenses now in addition with hazardous and emergency response.

We have a laundry list of these things. You can't just look and say, "Oh well, why can't they come up with $500,000 for this." Don't look at this in isolation. All your colleagues and other Committees are mandating additional costs. It's the cumulative impact that's truly weighty.

I would just finally point out to the Committee a letter that we've appended to our statement. It comes from Tom Christianson who is a supervisor for the township of Ironwood, Michigan. He talks about the tremendous cost increases that skyrocketed recently. Basically, for their sewage system, you're talking about a 100 percent annual increase in charges over the last six years.

I think it's important to point out and read his last comment here.

> My final statement on this financial nightmare is this: we are at or very near our capacity to handle the financial requirements that are before us now. We are sure that there are more to come. It does no good for a national economy, or a local ability, to meet other goals and commitments, if a community or State, or for that matter if anyone at all tie up themselves in a financial knot for years to come.

I really appreciate the Committee's attention.

Thank you very much.

Senator **Burdick**. Thank you.

Mr. Hammer.

STATEMENT OF ALLEN HAMMER, DIRECTOR, BUREAU OF WATER SUPPLY ENGINEERING, VIRGINIA DEPARTMENT OF HEALTH, REPRESENTING THE ASSOCIATION OF STATE DRINKING WATER ADMINISTRATORS

Mr. **Hammer**. Mr. Chairman, thank you. Someone suggested that with a name like Hammer and being last on the list that maybe I could nail things down. [Laughter.]

I don't pretend to have the answers. I can commensurate with the deliberations and debates that go forth in this chamber regarding these issues. I hope to point out my position and the position of the Association of State Drinking Water Administrators with regards to enforcing the Safe Drinking Act within the States that we represent.

The Association of State Drinking Water Administrators, ASDWA, focuses its concerns with water supply issues and is represented by virtually every State in the Union. ASDWA is the professional association that represents those collective drinking water interests.

Throughout the States we regulate approximately 204,000 public water supply systems which serve approximately 220 million people.

Small systems have been defined by the EPA as water systems which serve less than 3,300 people. Over the past decade, the problems of small water systems have received an increased level of attention by EPA, the State, professional associations such as the American Water Works Association, ASDWA, the National Rural Water Association, and by the public.

States have launched into many efforts on their own. In 1987, ASDWA formed a Small Systems Committee to focus on special problems associated with small systems. Individual States such as Pennsylvania, Montana, and Washington have developed worthwhile initiatives geared toward solving problems, particularly small system problems.

One of the characteristics that larger systems have—and we've talked about this a number of times this morning—a characteristic of larger systems is that they exhibit tremendous economies of scale. At some point the marginal cost of production is very low while the marginal revenues that can be generated are very high. Small systems suffer from severe diseconomies of scale. They cannot spread their costs over a broad consumer base, nor can they reach the high fixed costs, low marginal costs barrier by pumping large volumes of water.

Small water system problems will become much worse as new regulations are promulgated under the Safe Drinking Water Act amendments unless innovative solutions and additional sources of financial support are found. The cost of new regulations in the drinking area amount to a few dollars per household on large systems, but hundreds of dollars per year in annual household costs for consumers on small systems.

In addition to Safe Drinking Water Act impacts, most of the existing infrastructure of small systems are in dire need of replacement and/or upgrading. Many small systems were installed without engineering and are substantially substandard.

These major factors lead one to an inescapable conclusion: many small water systems simply do not have the capability to be viable water utilities. To be a viable water utility, a public water system needs various attributes: good management; an understanding of water supply engineering and operations; a customer base that has both the ability and willingness to pay; an understanding of accounting, finance, and water rates; and the ability to react in a timely and appropriate manner to regulatory entities such as State primacy agencies and the EPA. The typical small water system possesses few, if any, of these attributes.

The bottom line is that if the States and the EPA implement numerous provisions of the Safe Drinking Water Act amendments of 1986, many of the small systems will not have the resources to remain viable. The Safe Drinking Water Act amendments imposed two basic sets of burdens on small systems.

First, each regulation requires extensive monitoring to be conducted under State direction for contaminants that are expected to be found only in a very small proportion of those samples. The resources required to collect and analyze a vast number of samples will be substantial.

Secondly, many small systems, in addition to monitoring, will have to install expensive treatment equipment to remove inorganic and organic chemicals, remove radon, make their water less corrosive, and provide disinfection.

Congress passed the Safe Drinking Water Act amendments unanimously in 1986. The overall goal of the act, which is a noble one, is to ensure that every man, woman, and child who uses a public water supply is guaranteed a safe, potable supply of drinking water.

To comply with these congressional mandates, EPA is in the process of developing and promulgating nine major regulatory packages. When all rules are promulgated, they will represent a huge burden on everyone, especially the small systems. To put it in perspective, consider that during the six year period, from 1986 to 1992, EPA will promulgate more rules covering contaminants than have ever been established in the 214 year history of our Nation.

Small systems, unfortunately, cannot be accurately called utilities. Most, if not all, are not in the business of supplying water to consumers for a gain or as a their primary enterprise. Most, for example mobile home parks, campgrounds, day care centers, resort area, and homeowner associations, provide water only because it is essential to keep their primary enterprise viable.

ASDWA also has concerns and recommendations regarding small system financial assistance. First, any financial assistance needs to be coordinated with State primacy agents. Eligibility criteria should be established which would ensure that the neediest systems would receive the money.

Second, ASDWA recommends that the primary thrust of any financial assistance be public health protection related as opposed to a public works program.

Third, there are many small utilities which are nonviable because of their characteristics. The States and the EPA are currently working on a viability screening methodology which would prevent the formation of these nonviable systems.

Lastly, ASDWA recommends that the Senate not differentiate between small entities which are publicly owned and those which are privately owned with respect to eligibility for financial assistance.

ASDWA is generally supportive of the State Revolving Loan Fund approach embodied in these three bills. We believe this model, established under the Water Quality Act of 1987, is an effective way of providing access to capital.

Of the three bills, ASDWA greatly prefers S. 1296. We believe the focus should be on small rural water systems, not on small environmental systems. Drinking water has historically been lost when considered alongside waste-water and solid waste needs.

ASDWA appreciates the opportunity to present its views to the Committee. We would be pleased to discuss our views on small water systems with members of the Committee at any time.

Thank you.

Senator BURDICK. Thank you.

Mr. Johnson, could you explain in more detail how you think the under-funding of the Garrison Diversion Project has affected water quality in small communities in North Dakota?

Mr. JOHNSON. Well, Senator Burdick, as you probably well know, because of your involvement in the history of this project, as part of the Reformulation Act in 1986, $200 million was supposed to be made available for water projects and grants for water projects in the State of North Dakota. Every year, Garrison Diversion has been under-funded and this time was considered for zero funding. There was a commitment made by the Federal Government to North Dakota in 1944, as part of the Pick-Sloane Plan, or one that flooded 550,000 acres in North Dakota for downstream navigation and flood control, that the water from the Missouri River—which represents 96 percent of all the surface water in the State of North Dakota—would be redistributed through the State to help people in the areas of recreation for drinking water and for stabilization.

So there was a commitment made. That commitment hasn't been met. So consequently now when the Environmental Protection Agency comes out with safe drinking water standards, North Dakota finds itself in a very precarious position because of the number of small communities that we have that do not have the funding to meet those requirements, and because Garrison Diversion was not funded as it should have been.

Senator **Burdick**. For the sake of North Dakota, if not for all the States, we should make some concessions to the small communities, should we not?

Mr. **Johnson**. Yes, we should, Senator.

Thank you very much. I appreciate your concern.

Senator **Burdick**. Senator Baucus.

Senator **Baucus**. Thank you, Mr. Chairman.

Mr. Leonard, I very much appreciated your statement. I thought it was a very effective summary of the problems that rural communities face. I'd like to, if you don't mind, go down some of the recommendations that you have in your prepared testimony and try to flush out a little more of what you mean by them.

First you said, "Grant programs should predominate any legislation intended to give financial assistance to small rural communities." You seem to imply that some of the large loans, at low rates, just are not very helpful. Could you expand on that a little bit, please?

Mr. **Leonard**. Yes, sir.

We have any number of communities in Montana—and my contemporaries tell me this holds true throughout the Midwest Assistance Program's nine State Midwest area—these communities just cannot afford to pay back huge loans. We're not saying that those people in the communities should get a giveaway, but they can't afford $1 million is probably a low end water project or wastewater project. For a community of 100, that just doesn't pencil out. Even as a zero interest loan they couldn't afford it.

Now what's happened, sir, with the SRFs, as instituted by EPA so far, the States are to put up their matching fund. In their wisdom, the State Legislatures have decided to pass revenue bonds to provide matching funds. Those revenue bonds have to have an interest paid on them in addition to being paid back. So now to let the communities borrow from those revolving funds, we must charge an interest rate—reasonable, certainly at 3 or 4 percent—but it is just not affordable to——

Senator **Baucus**. What do you think is the proper population cutoff to focus primarily on a grant program?

Mr. **Leonard**. I really hate to commit myself to that, sir, but certainly the 2,500 in your bill is, I think, very comfortable on the high side. But if we were to look at grants only, that would possibly be in the one thousand and less population size. Those are the communities who just don't have any alternative as far as being able to raise the money. It's just not there.

Senator **Baucus**. You made another interesting point that maybe it would be inappropriate to focus on income levels within communities because of the difficulty in assessing what those incomes are. You suggested perhaps targeting rate structures. Could you expand on that a little bit, please? That's an interesting concept.

Mr. **Leonard**. I'd be happy to, Senator.

It's much easier in these small communities to get the public's interest—not just the council or the water and sewer district board—but the public's interest and support. If you can say to them, "We've found the State average of rural drinking water to be about $20. It's gradually inching up. $20 a month per hookup. That's about where we're going to try to shoot to get your system in for." Now they do buy that. That's fair. That's what the other folks are paying as opposed to going into the community and saying, "We might qualify for this or that if your income is low enough." We look it up in the census tabulation, and it's not, but then the enumeration district doesn't fit the communtiy we're talking to, so now we have to run a local survey and ask people to divulge what they reported last year on their income tax. It just gets to be a real negative hassle.

Communities get smart to that, too. Every one of these communities has a millionaire living in it, as sure as I'm talking to you—you know that—but you can't identify that person as a stranger from out of town.

Senator **Baucus**. So you think the grant program should focus more on the rate structure rather than on the income levels?

Mr. **Leonard**. Yes, sir. I think that needs to be looked at.

Senator **Baucus**. Would the rest of the panelists agree or disagree with that concept?

Ms. **Lawrence**. That's something we don't have any policy about, but we could certainly take that back to our board and ask.

Senator **Baucus**. Mr. Hammer.

Mr. **Hammer**. Yes, sir.

I would agree. One of the other things, Senator Baucus, is the fact that if you're only going to use population there are some bedroom communities that are very small but are very wealthy. So there needs to be another consideration for distressed—or something else—some other kind of criterion.

Senator **Baucus**. Ms. Lawrence.

Ms. **Lawrence**. I would say that Nickols Hills, an enclave in Oklahoma City, is home for probably the 2,000 wealthiest people that live in Oklahoma City. So I'm not certain that population is always a good base.

Senator **Baucus**. Mr. Leonard, you also mentioned the importance of technical assistance. Can you flush that out a little bit more? Can you tell us what you mean by that?

Mr. **Leonard**. Well, the people——

Senator **Baucus**. You say in your recommendation "on a daily basis".

Mr. **Leonard**. As you know, the people in these small towns are the finest people in the world. They're educated people and they do their job in an excellent manner, whether that's ranching, pharmacist, doctor, or lawyer. But they don't know the first darn thing about putting together a water or waste-water project. They don't know where to start. They don't know where to turn for any kind of financial help. They just don't know, and they can't be expected to know. They don't have a planning staff. They don't have a city manager. They need this technical assistance from really the first step on. Once they get into a project, there's a lot of pitfalls.

Senator **Baucus**. How would you set up that technical assistance? If someone is living, say, in Denver, he's not going to know a lot about Whitefish, for example.

Mr. **Leonard**. No, sir.

Senator **Baucus**. So how would you put two and two together to get that additional technical assistance in the most efficient way to a smaller community, or say like Jordan?

Mr. LEONARD. I may be just slightly biased in this regard, but I think my organization does it very well. They put field representatives—preferably those who hail from the State—in the State. I'm working with two dozen or more communities in the course of almost every day of the month on water, waste-water, or solid waste projects. At the expense of slapping my own back, I'd probably get to be about as expert on it as anybody in the State. That's the way to do it. Certainly not from out of State, I don't think.

Senator BAUCUS. You mentioned, "Procedures must be developed to attract additional State commitment". You mention in a couple of your recommendations here—or at least you imply—that there is not adequate State commitment to these rural communities and that perhaps there should be some Federal incentives. Could you expand on that just a bit, please?

Mr. LEONARD. Well, I think that's the one I have the least guidance to pass on, Senator. I don't feel most States are doing their fair share. I say that up front and very unashamedly. But just how to get them more into it so that they participate more, I really don't have an answer for you. I hope there can be some creative legislation. I did warn, you noticed, against matching funds just because they tend to boomerang back on the smallest communities.

Senator BAUCUS. That's right.

As you know, our State of Montana is suffering some very dire financial straits right now. The Legislature, when it meets, is going to have a difficult time figuring out how to make ends meet. I know States are strapped too.

Mr. LEONARD. They certainly are.

Senator BAUCUS. Thank you very much. This helps.

We're going to try to package these various bills together—at least that will be my intent—and report out a bill that combines the best features of all these bills.

Thank you very much.

Thank you, Mr. Chairman.

Senator BURDICK. Thank you very much for your contribution this morning. This ends the hearing at this stage. I know that Max and I are very glad that our States are represented here today.

Senator BAUCUS. Very ably, I might add, too, Mr. Chairman. I was very impressed.

Senator BURDICK. Yes. And the others did very well, too. [Laughter.]

Senator BAUCUS. Yes, they did.

Senator BURDICK. The record will be open for one week.

Thank you.

[Whereupon, at 12:37 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record and the pending bills follow:]

STATEMENT OF
ROBERT H. WAYLAND, III
DEPUTY ASSISTANT ADMINISTRATOR FOR WATER
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
ENVIRONMENT AND PUBLIC WORKS COMMITTEE
UNITED STATES SENATE

May 15, 1990

Good morning Chairman Burdick and members of the Committee. I am Robert Wayland, Deputy Assistant Administrator for the Office of Water at the U.S. Environmental Protection Agency. I am pleased to have the opportunity to discuss with you today the considerable challenges we believe small communities will face in their attempt to comply with environmental regulations. I will also discuss some of the actions EPA has taken, and continues to take, to understand and ameliorate these difficulties as well as possible future considerations.

Small Communities

Twenty percent of the U.S. population resides in the 34,000 communities whose governments serve 10,000 or fewer citizens. Each of these governments differ in their organizational structure, ability to develop revenues, and the services they provide. Most, however, collect and manage domestic sewage and solid waste generated by private citizens and maintain a drinking water distribution system. The laws EPA administers are generally premised on the proposition that citizens of smaller communities should be afforded public health and environmental protections comparable to those for citizens of medium and large communities. The results of several EPA studies as well as our programmatic experience give us concern about the ability of small communities to meet environmental requirements necessary to protect health and the environment. We have found that small communities:

1. generally have lower incomes per household;
2. have limited, if any, paid professional staff to manage environmental or other public facilities;
3. pay a substantially higher annual average cost per household for environmental services;
4. will need to impose relatively larger increases in user fees to construct or operate upgraded facilities to meet new environmental regulations; and
5. pay the highest relative cost to borrow capital and may be unable to issue general obligation debt.

EPA Initiatives

EPA has, over the last several years, taken various actions designed to increase the Agency's understanding of the impacts of our various statutory and regulatory requirements on small communities. In the Fall of 1987, the Administrator requested an analysis of the cumulative costs of environmental controls then under development on the municipal, small business and agricultural sectors of the economy - the Sector Study. The Administrator's request arose from the concern that EPA's regulatory review process has tended to focus on one regulation at a time, thus masking the greater financial burdens imposed due to cumulative impacts. For context, we noted that the 1984-1985 Census of Governments reported that municipalities under 50,000 were devoting 21 percent of their expenditures to the environment.

The Sector Study determined that the "baseline" average household cost for environmental services in communities under 2,500 population was $300. While per household baseline costs are somewhat higher in larger communities, we believe this is due to the decreased range or quality of services that small communities provide. For example, small communities may not treat their drinking water and/or may not have adequate wastewater treatment facilities. However, because household incomes are lower, citizens of small communities pay a higher percentage of their income for these services than do the citizens of larger communities.

Although the Sector Study identified some 85 recently adopted and planned rules as potentially imposing costs on one or all of the sectors examined, the three categories of rules with the dominant cost impacts for local governments were wastewater treatment, safe drinking water and municipal solid waste. The study determined that the annual average cost increase per household for all small communities would be $170 or 57 percent. Between 21 percent and 30 percent of these small communities would have difficulty financing the new capital requirements and expansion of monitoring, operation, and maintenance. The increases in fees will be accompanied by a greater reliance on local debt financing mechanisms to provide funds to purchase capital equipment. Although many of the smaller communities are unaccustomed or averse to using debt financing mechanisms, most would not be precluded from using these mechanisms by their current financial conditions.

The costs of several regulations that may affect municipal governments were either not included in the Sector Study analysis (because they were not available at that time), or their costs have been revised since that time. Therefore, the extent of impacts may be underestimated. For example, the Sector Study did not include costs for a regulation controlling 25 drinking water contaminants, and costs have been revised for four other drinking water regulations.

We have continued to refine the cost estimates associated with individual rules since the Sector Study was complete, but we have not included the revised estimates in a new cumulative impact analysis. Our judgment is that the Sector Study results would probably not be significantly changed. The time period over which the requirements will be instituted may be long enough to allow for gradual adjustments to user fees and city finances, so the severity of impacts may be reduced. Other mitigating measures, such as privatization or mergers, may also reduce the severity of impacts.

The Sector Study increased awareness in the Agency of the potential magnitude of the cumulative impact of individual actions. It has also prompted us to take action to assure that we carefully consider financial impacts as individual rules are developed.

In February of 1982, EPA issued Guidelines for Implementing the Regulatory Flexibility Act. The Guidelines assist employees who develop regulations in determining whether new rules will have a significant impact on small communities, as well as small businesses and small organizations.

EPA has also developed training materials to raise the awareness of people developing regulations of the special concerns of small governments. These materials also list organizations and periodicals targeted for small communities, to encourage regulation developers to establish a dialogue with small communities.

EPA recently established a full-time focal point for small communities, the Small Community Coordinator. The Coordinator represents small community concerns within the Agency by representing their interests as well as working directly with small government representatives. More specifically, the Coordinator integrates consideration of small community issues into Agency cooperative management, technology transfer, innovative financing and technical assistance programs. The Coordinator also ensures that different geographic perspectives are represented by involving EPA's Regional Offices in small community issues.

The Sector Study suggested several ways in which impacts could be ameliorated - many of which are being pursued in one or more of EPA's programs:

- establishing public dialogue on the issues
- extending technical assistance programs
- extending financial assistance programs
- additional research

I would now like to review the additional steps EPA is taking to implement these recommendations.

Public Dialogue

Public-Private Partnership Task Force - A public-private partnership (P^3) is a contractual relationship between a public and private party that commits both to providing an environmental service. Because EPA believes that this can be a good approach to resolve the growing gap between environmental requirements and available resources, we have established an Agency-wide task force to promote this type of activity. These efforts are focused on establishing partnerships in the areas of drinking water, wastewater treatment, and solid waste at the local level, with particular emphasis on small communities. Our P^3 task force objectives include: providing national leadership and coordination, identifying impediments and incentives, facilitating partnership formation, and providing community outreach.

The National Advisory Council for Environmental Technology Transfer was established to advise the Administrator on management approaches among Federal, State and local governments, business and academia. It is also examining ways to reduce barriers to both program and technology development and transfer among these different entities. The Council established four committees to work on education and training, state and local programs, technology innovation and economics, and international cooperation.

EPA has also established the Environmental Financial Advisory Board (EFAB). The purpose of the EFAB is to provide advice and position statements to the EPA Administrator regarding environmental finance and legislative and taxation issues, particularly with regard to their impact on local governments and small communities. The EFAB will also recommend policies to increase public and private investment in environmental protection. The EFAB has established four workgroups including one dealing with "Financing Strategies for Small Communities".

Technical Assistance

Wastewater Treatment

EPA has established two primary mechanisms to help small communities achieve compliant, self-sufficient wastewater facilities through sound financial planning and management, appropriate technology, proper operation and maintenance, and citizen awareness and support. These are the Small Community Outreach and Education program (SCORE) and the National Small Flows Clearinghouse.

SCORE is intended to get the appropriate technical information to small community officials, wastewater managers and consulting engineers to help them achieve this. SCORE also stresses that an adequate user fee system is a key to sound financial management. It explains that educating citizens to the real costs of treating wastewater can win their support for adequate user fees.

The National Small Flows Clearinghouse, located in Morgantown, West Virginia, is the national center for small systems wastewater technology transfer, management information and training resources. With the assistance of the Clearinghouse's technology transfer programs, local agencies can explore alternative technologies and obtain the information needed to operate and maintain their public works. The Clearinghouse staff provides information to assist government officials and professionals in planning, financing, designing, constructing, managing, operating and maintaining small community wastewater treatment facilities. A toll-free WATS line provides easy access to order documents or to discuss information needs with the Clearinghouse staff.

Drinking Water

While many small communities face challenges to comply with current and future drinking water standards, a large number of privately-owned, very small water supply systems complicate the situation even further. Of the nearly 60,000 community water systems in the U.S., almost two-thirds serve populations of fewer than 500 people. **Approximately one-half of these very small systems are privately owned, and about 7,000 of these are trailer parks.** While these very small water systems make up over 60 percent of EPA's universe of regulated community water supplies, they serve only 2.5 percent of the nation's population.

Current State and Federal drinking water requirements pose a significant challenge to the nation's small water systems. Nearly 70 percent of all violations arise within very small systems, that is systems that serve populations of 500 or less.

EPA recognizes the scope and seriousness of the challenges it faces in trying to realize the goal of public health protection as embodied in the Safe Drinking Water Act Amendments (SDWAA). In order to meet this challenge we have undertaken a broad and far-reaching "Mobilization" effort. Mobilization involves the formation of action-oriented partnerships among EPA, State drinking water programs, and organizations representing constituencies affected by the SDWAA.

These partnerships are necessary because EPA and State drinking water programs can provide only a fraction of the technical, managerial, and financial assistance necessary to facilitate compliance. Through partnerships with organizations representing affected constituencies, EPA and the States can obtain maximum returns on limited resources.

Mobilization has three principal objectives. The first objective is to strengthen the institutional framework for water supply at both the State and small water system level. At the small system level, mobilization promotes restructuring of systems through managerial consolidation, formation of cooperatives, regionalization, and other means. One of the projects underway is a demonstration of the feasibility of a group of mobile home parks entering into a cooperative arrangement to purchase operations and management services for drinking water treatment.

The second objective is to build technical and managerial capabilities for SDWA implementation. We are doing this by making sure small systems are aware of appropriate technologies and understand how to use them. We will promote the identification, development, marketing, approval and application of simple, inexpensive drinking water technologies for use by small systems, and are considering a small system clearinghouse. We also are working with national and state coalitions to develop and offer training for small system owners, operators, and local health officials.

The third objective is to change public attitudes. The purpose here is to establish an informed public that understands the costs and public health benefits of treating drinking water.

Financial Assistance

The wastewater treatment needs of most Americans have been met through construction of facilities that were substantially underwritten since 1972 by the $53 billion in grant awards administered by EPA under the Clean Water Act. In view of the serious Federal deficit, and the fact that wastewater treatment is primarily a local responsibility, that program, as this Committee knows, is transitioning to Federal capitalization of revolving loan funds administered by states. Most states have established their SRFs, and many have begun making loans to local governments and regional entities that, when repaid, will sustain the SRFs into the future.

There are a number of other Federal programs that provide assistance for financing wastewater and drinking water construction or improvements. Such programs are administered by the Farmers Home Administration, the Appalachian Regional Commission, the Economic Development Administration, the Tennessee Valley Authority, the Soil Conservation Service, the Indian Health Service, the Department of Housing and Urban Development, the Army Corps of Engineers and the Bureau of Reclamation. I will describe two of these programs in more detail.

Farmers Home Administration

The Farmers Home Administration (FmHA) provides financial assistance for water and waste disposal facilities to public entities such as municipalities, counties, special purpose districts, Indian tribes, and corporations not operated for profit. This assistance is available in rural areas and towns of up to 10,000 people. Priority is given to public entities smaller than 5,500 and those serving low-income communities.

This is an unusual Federal environmental assistance program in that it considers a community's financial ability in determining the amount of Federal assistance to be provided. The determination is based on the rural population and the number of households in poverty. Funding is available in the form of both loans and grants.

In past years, approximately 3,100 grants or loans totaling $1.35 billion have been awarded under the FmHA's program.

HUD Program

HUD administers Community Development Block Grants (CDBGs). CDBGs are used to help low and moderate-income persons through the elimination of slums or blight, or, most particularly, through the elimination of conditions which are detrimental to health, safety, and public welfare. The size of these grants is based on formulas utilizing objective variables of population, poverty, housing overcrowding, age of housing, and growth lag experienced in each community. For smaller communities with fewer than 50,000 people, States are allocated formula grants for subsequent distribution to their communities, awarded most commonly on a project-by-project basis.

Future Federal Assistance

Direct Federal financial assistance is not a panacea for small communities, and in most cases is not an appropriate role. Instead of financial assistance, communities should be strongly encouraged to address many of their problems by establishing user fee systems sufficient to cover the operation, maintenance, and replacement of the facility.

In light of Federal fiscal constraints, we need to be particularly careful to avoid activities that would normally be considered local responsibilities. With respect to the bills which are the subject of this hearing, the Administration opposes S. 1296 because the Federal government has a limited role in the funding of construction of local water supply systems. The Administration opposes S. 1331 and S. 2184 because both bills would set up state revolving funds which duplicate the functions of existing funds. The States currently have the ability to use existing state revolving funds, established under Title VI of the Clean Water Act, to address the wastewater treatment needs of small communities and economically distressed areas. More fundamentally, the Administration opposes any further commitment of Federal funds to meet local wastewater treatment needs beyond what is already authorized by law.

The Administration opposes S. 1514 as currently drafted. We have two primary concerns with Section 1. First, it would appear to allow a situation to develop whereby, in the event of default on the debt issued by the owner of the wastewater treatment plant, not only the plant's revenues, but also the facility itself, purchased in large part with Federal monies, might be forfeited to satisfy creditors. This ambiguity needs to be eliminated.

Second, we feel it is inappropriate that either a wastewater treatment plant, or the revenues it generates, should be used indirectly to support activities that are not related to the control of water pollution. While these other activities may be worthwhile, the funds originally provided under the Clean Water Act for construction of wastewater treatment plants should not be used, even indirectly, to support other activities until all wastewater treatment needs in a community are satisfactorily addressed.

Our main concern with Section 2 is that it would appear to leave open the possibility that a wastewater treatment facility might become forfeited collateral for a debt. As with Section 1, the language must preclude forfeiture of the wastewater treatment facility.

In conclusion, Mr. Chairman, I would like to emphasize that the Agency recognizes the significant burden that its various requirements are likely to have on America's small communities, which, as I have discussed, already face a number of inherent difficulties by virtue of their size and governmental structure.

In addition to gaining a better understanding of these impacts, we are implementing a number of programs designed to assist communities in providing cost-effective environmental protection that is fully in compliance with EPA's statutory and regulatory requirements. Our programs are heavily oriented toward non-subsidy approaches.

Do we need to improve our efforts? Yes, without a doubt. We need to enhance our ability to determine the cumulative impact of all our regulations as well as each individual rule. To the extent possible, we need to tailor our education and assistance efforts to the conditions in individual communities, as their needs vary widely depending on a variety of factors. Finally, as new legislation is considered by the Congress, we need to share our analyses of the effects of these requirements on small communities with you.

Thank you Mr. Chairman. This concludes my statement. I will be happy to respond to any questions that you or other members of the Committee may have.

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Thank you Mr. Chairman. This concludes my statement. I will be happy to respond to any questions that you or other members of the Committee may have.

UNITED STATES ARMY
CORPS OF ENGINEERS

COMPLETE STATEMENT

OF

MAJOR GENERAL PATRICK J. KELLY
DIRECTOR OF CIVIL WORKS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ON

INFRASTRUCTURE AND WATER SUPPLY

MAY 15, 1990

**NOT TO BE RELEASED UNTIL APPROVED BY THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**

DEPARTMENT OF THE ARMY
HEADQUARTERS
UNITED STATES ARMY CORPS OF ENGINEERS
COMPLETE STATEMENT OF
MAJOR GENERAL PATRICK J. KELLY
DIRECTOR OF CIVIL WORKS
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
MAY 15, 1990

Mr. Chairman and Members of the Committee, I am pleased and honored to be here today to represent the Department of the Army before this Committee to discuss the Army's interest, pursuant to its Civil Works mission, in the Nation's infrastructure and specifically its role in assisting states and local interests in the development of their water supplies.

I would like to begin by outlining briefly the programs and policies for Army's participation in providing water supply for municipal and industrial uses; highlight our planning assistance to states program; and provide an overview of our emergency water supply authorities. I then will discuss the problems facing our Nation's infrastructure and review our progress to date in addressing these problems. Finally, I will comment on S. 1296 the "Rural Water Supply Assistance Act of 1989" which provides the Secretary of the Army authority to make capitalization grants to states for providing assistance for the construction of improvements for rural water supply systems.

GENERAL POLICY ON WATER SUPPLY

Because water supply is a private economic good, it is sometimes provided by private suppliers; although state and local governments supply most of the water for municipal and industrial use in this country. As a private economic good, municipal and industrial water supply is a fully vendible output. That means it is a good similar to those produced by the private market sector, and its costs can be fully recovered from the users if the service is a sound economic investment. As a fully vendible service, users should pay the full cost of storage space in new or modified Army projects. This helps insure that sound economic choices will be made regarding the use of water and pace of its development. That is why Army supported the sections of the Water Resources Development Act of 1986 that shortened the repayment terms for municipal and industrial. water supply and removed certain other subsidies that had characterized water supply policies of the past. Appropriate pricing encourages conservation and wise use of the Nation's limited water resources.

Army policies require that non-Federal interests pay, annually, all operation, maintenance, repair, rehabilitation, and replacement costs allocated to water supply storage. In addition, capital investment costs are either paid during construction or recovered over time depending on the project and type of storage.

MUNICIPAL AND INDUSTRIAL WATER SUPPLY AUTHORITIES

In the area of municipal and industrial water supply, the Army derives its general authority from the Water Supply Act of 1958, as amended, and Section 6 of the Flood Control Act of 1944.

Water Supply

The Water Supply Act of 1958 establishes a policy of cooperation in development of water supply storage for municipal and industrial uses as a purpose of a civil works project when certain conditions of non-Federal participation are met. However, following the general policy outlined above, the Corps of Engineers does not construct single-purpose water supply projects. Water supply service provided by the Army consists of storage space in a project for use in regulating the flow of water so that it is useful for water supply purposes by the non-Federal sponsor. Water supply contracts do not involve the sale of water but rather the sale of storage; any necessary water rights are obtained by the non-Federal sponsor.

We do participate and cooperate with states and local interests in providing such storage in connection with the construction, maintenance, and operation of Federal navigation, flood control, or multiple purpose projects under the 1958 Act. Before municipal and industrial water supply storage space is included in a multiple purpose civil works project, the demand for municipal and industrial water in the region of the project and the alternatives for meeting that demand are evaluated. If including water supply storage in the Federal project is the most economic alternative for the sponsor for meeting the need for water supply, and if the addition of water storage represents the best use of the storage space when compared to its use for other purposes, such storage may be provided if the sponsor agrees to the required financial commitments. Provision for water supply storage can be made at completed projects, as well as projects in the planning stage. At the present time, the Army operates 115 such projects containing about 9.5 million acre-feet of storage for municipal and industrial water supply. This represents a Federal investment of over $1.2 billion.

Policies with respect to the sale of storage space in our projects can be grouped into three distinct categories. The first category is storage not under contract, but included in an existing project for future municipal and industrial use. At present we have about one million acre-feet of uncontracted storage. The second category addresses the construction of new projects or modification of existing projects that include water supply storage space when it makes economic and environmental sense. The third category covers cases where we take storage space away from other project purposes for water supply use. This reallocation of storage for water supply is becoming increasingly important in areas where uncontracted storage is not available. Modification of existing projects in this manner allows us to better meet contemporary demands and to manage projects in accord with new priorities.

Surplus Water

In accordance with Section 6 of the Flood Control Act of 1944, the Secretary may enter into contracts with states, municipalities, private concerns, or individuals for the use, for domestic and industrial purposes, of surplus water available at Army projects at a reasonable price. Surplus water contracts commonly involve temporary uses and normally require renewal after a 5-year period. Any necessary water rights are obtained by the non-Federal sponsor.

PLANNING ASSISTANCE TO STATES

The Planning Assistance to States Program, also known as the Section 22 Program, is authorized by Section 22 of the Water Resources Development Act of 1974. The objective of the Planning Assistance to States Program is to support states in their comprehensive planning for the development, utilization and conservation of water and related land resources.

The Corps uses its technical expertise in water and related land resources management to help states deal with their water resources problems. Typical activities studied under this program include flood damage reduction and mitigation, water supply, water conservation, water quality, hydropower, shoreline and stream bank erosion, wetlands evaluation, and navigation. Studies vary in size from investigations in a single watershed to comprehensive state-wide water resources planning.

Water supply investigations are a major component of the Planning Assistance Program. The Corps has evaluated water storage projects to determine water supply requirements including the identification of potential water supply sources to meet those requirements. In metropolitan areas, we have evaluated potential water interconnectors to increase efficiency by allowing for transfers of water between city and suburban utilities. We have also inventoried water impoundments to determine effective water supply yields, and developed a methodology for a regional approach to evaluate water supply and wastewater treatment requirements.

Assistance from the Corps under the Planning Assistance to States Program must be requested by the appropriate state water resource agency. The state coordinator compiles a priority list of studies and provides it to the Corps each year. The appropriate Corps District then accommodates as many studies as possible within the funding allotment for that state.

EMERGENCY WATER SUPPLY

In addition to general water supply authorities, Congress has provided the Army with specific emergency authorities to respond to contaminated water supplies and drought .

Contaminated Drinking Water Assistance. Section 5 of the Flood Control Act of 1941, as amended by Section 82 of Public Law 93-251 authorizes the Chief of Engineers to provide emergency supplies of clean water, when requested, to any locality which is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. Assistance may only supplement state and/or local efforts to provide water. Work under this authority requires a request from the Governor of the state and a determination by the Corps of Engineers that the source of water has become contaminated. The assistance is temporary and is normally limited to 30 days. Loss of water source or supply is not correctable under this authority. This authority was last used in 1989 for hauling potable water to a community in Utah.

Drought Assistance. Public Law 95-51, further amended Section 5 of the Flood Control Act of 1941 and provides the Secretary of the Army authority under certain conditions to construct wells and to transport water to farmers, ranchers, and political subdivisions within areas the Secretary determines to be drought distressed. Army assistance will only be considered when non-Federal interests have exhausted reasonable means for securing necessary water supplies, including assistance from other Federal agencies. The cost of transporting water is provided by the Army; however, the cost of purchasing and distributing water is the non-Federal interests' responsibility.

During the drought of 1988, the Corps provided emergency water assistance to four communities; two were in Illinois and two were in North Dakota. In 1989, emergency water assistance was provided to eleven communities; nine in Iowa and two in North Dakota. In April of 1990, assistance to five communities in Iowa was extended until November 30, 1990.

INFRASTRUCTURE

Throughout our Nation's history, the U. S. Army Corps of Engineers has actively participated in planning, designing, constructing, and operating and maintaining various aspects of this Nation's infrastructure. The Corps has been engaged primarily in construction of large multiple purpose dams, harbors and waterways, and flood control projects through its civil works program. Our military missions have resulted in the construction of large military facilities, air bases and installations including associated infrastructure such as housing, roads, water supply and waste water treatment plants.

Up until recent studies were completed on public works improvement, this Nation had not focused on the long term operation, maintenance, and rehabilitation costs that our infrastructure system would place on the shoulders of future generations. As was indicated in Fragile Foundations, the report completed by the National Council on Public Works Improvement, we need to develop solutions today to rebuild our infrastructure with systems which promise reduced financial burdens for tomorrow. The Corps' involvement in many aspects of the Nation's infrastructure has created a deep concern within the Corps for the future of both the infrastructure for which we have programmatic responsibility, as well as that of the rest of the Nation. Whatever the future Federal role is to be, the Corps of Engineers will be prepared to support it.

I recently established in the Civil Works Directorate a Corps Infrastructure Task Force which has the responsibility to implement an action plan as a contribution to the total national effort to address our many infrastructure needs. The plan involves maintaining and sustaining water resources, water supply, energy, solid waste disposal, hazardous and toxic waste disposal, and other infrastructure modes within Corps mission areas and under existing authorities. Much of this plan calls for building further on Corps partnerships with other agencies of government. The Corps also has an infrastructure initiative included in the President's FY 1991 Budget which provides for the Corps to initiate discussions with other Federal agencies having infrastructure missions in an effort to work together in the development of recommendations for a Federal strategy for addressing America's infrastructure problems. Currently, there is no integrated Federal focus on infrastructure issues and no means to evaluate and implement policy recommendations. Our FY 1991 Budget initiative would provide a catalyst for such a Federal focus.

S. 1296

At this point, Mr. Chairman, I would like to provide general comments on S. 1296, the "Rural Water Supply Assistance Act of 1989." The bill recognizes the problems that small communities face regarding their water supply systems and the importance for providing safe and dependable supplies of water to consumers. We oppose the bill because of its creation of a new state revolving fund that would be capitalized by the Federal Government. As I mentioned earlier, it is our position that users should pay the full cost of water supply since it is a fully vendable service. In addition to the capitalization grant provisions of S. 1296, the bill would also authorize the Corps of Engineers to provide technical assistance to any rural water supply system on a fully reimbursable basis. We would support proposals that would use our Civil Works engineering and construction management capability on a fully reimbursable basis. Our expertise would afford the nation an opportunity to solve many of the infrastructure problems. We believe that under reimbursable services, where the recipient of those services is expected to contribute significantly to what they are getting, you get a more accurate measure of what is really needed, and you have a higher assurance that the Federal money is being well spent.

As I mentioned earlier, the Corps is embarking on a program to assist the Nation in addressing its many infrastructure problems, including water supply. We look forward to working with the committee to address these problems and developing solutions to rebuild our infrastructure.

Mr. Chairman and Members of the Committee, we commend you for your leadership and applaud your efforts to improve the Nation's infrastructure. We pledge our support and look forward to working with you in developing a National infrastructure program.

Mr. Chairman, that concludes my statement. I would be pleased to address any questions you or other members of the Committee may have.

SMALL COMMUNITIES AND ENVIRONMENTAL PROTECTION

STATEMENT OF EDITH B. PAGE
Project Director

Office of Technology Assessment
Congress of the United States

Testimony Before
Committee on Environment and Public Works
United States Senate

May 15, 1990

SMALL COMMUNITIES AND ENVIRONMENTAL PROTECTION

This hearing and the bills under discussion today are indeed timely. They address an issue that is difficult and immediately pressing: the financial impact of environmental and health standards on small, disadvantaged communities. In September 1988, at the request of this Committee and the House Committee on Public Works and Transportation, OTA began a study, to be completed late this summer, of public works technologies, management, and financing. Our initial task was to review the needs and problems of State and local governments, because, after all, if they had no concerns about public works, the Federal Government would not need to consider revising its own programs. We pulled together the information collected in this initial review, and in late March, this Committee released the results in the first major document from the study, *Rebuilding the Foundations: A Special Report on State and Local Public Works Financing and Management.* Our testimony today will be based on this work. Let me review some of our major findings relevant to today's subject, before commenting on specific aspects of the proposed legislation.

IMPACTS OF ENVIRONMENTAL PROTECTION REQUIREMENTS

The outlook for local jurisdictions reviewing their environmental protection agendas is both gloomy and costly. As required by either legislation or as the result of lawsuits filed by environmental and health watchdog groups, EPA has been issuing a number of requirements to upgrade standards for wastewater treatment facilities, drinking water supply, and municipal solid waste. These have -- or will -- become effective over a period of several years, but their impacts are already being felt. New solid waste disposal facility requirements were implemented last fall, and standards for testing drinking water and eliminating combined sewer overflows will be coming on line soon.

To comply with the new standards, jurisdictions of all sizes are going to have to improve their facilities, and it is going to cost money. No one questions the need for health standards or for environmental protection, but some have questioned whether any affordable means to meet them exist, especially for small, rural communities. Such towns have very small economic bases, often heavily dependent on farming or mining -- both highly cyclical -- and low personal income levels. Many are located in remote areas and are not attractive to private investors. A number of these towns are likely to have to build entirely new facilities just to meet the new standards.

As you can see in table 1, EPA estimated that at least 20 percent of the smallest jurisdictions, with populations of 2,500 or less, would find their household charges for environmental services more than doubled as a result of standards implemented as of 1988. Another 35 percent of these towns and the largest jurisdictions, those with populations over 250,000, would have fee increases of between 50 and 100 percent. These estimates were for costs of the standards effective 2 years ago, well before the newest requirements, which I described earlier, were implemented.

As you know, the major remaining Federal source of funds, EPA's wastewater treatment construction grant program, is being phased out, and each State is required to use the grant monies to establish State Revolving Funds to make loans to local governments. While almost every State has established a revolving fund, most of these contain nowhere near the resources necessary to finance the wastewater treatment facility construction needs of the local jurisdictions. Indeed, many cannot finance even their top priorities, a list that, in most cases, emphasizes a State's largest jurisdictions, because their environmental problems are likely to be most severe. OTA concluded that chances are good that a number of jurisdictions may choose noncompliance as their response to the new standards or be forced into it.

In fact, we have watched just such a situation unfold over the course of our study, in the small Texas town of Rocksprings. The town needs a new wastewater treatment system, and its landfill, which still has plenty of capacity, does not meet new EPA standards. Constructing new facilities would cost each resident more than the value of the average Rocksprings' home, even if a loan package could be cobbled together from several State and Federal sources. The town's only alternative to noncompliance was to unincorporate, because unincorporated areas are not subject to

EPA requirements. This town chose noncompliance -- and Rocksprings' situation is by no means unique. Questions must be raised about the wisdom of government policies that create such dilemmas for local governments without providing adequate assistance.

THE STATE ROLE

States have the potential to play larger roles than many have yet chosen in several ways. The three maps in my testimony provide additional information that will shed light on my comments on the proposed bills. Figure 1 shows OTA's estimates of the impacts on each State of reductions in Federal aid. As you can see, many of the States that will be most heavily affected are themselves large, rural agricultural or mining States, or among the poorest States in the country. These are the very States that have the fewest resources of their own and have large percentages of small, disadvantaged communities.

OTA took a look at States from another perspective, however, and discovered that they vary widely in the strength of their economic bases (as shown in figure 2), an important fact to consider as Federal policy shifts increasing fiscal responsibility to State and local governments. Over the past several years, the average rate of State revenue growth has fallen behind the growth in expenditures, and a number of States have had to cut expenditures because of revenue shortfalls.

We also found that States differ markedly in the degree to which they levy taxes and fees to assist local governments with public works or other needs. Some, such as New York, Wisconsin, and Wyoming, are committed to providing services supported by State revenues. Others, such as New Hampshire, Florida, and Nevada, have economies with substantial untapped capacity. Figure 3 shows the fiscal effort exerted by different States. OTA found reasonable consensus among the advisory panel members, workshop attendees, and other State and local officials we consulted that the level of effort expended was a useful evaluation tool for allocating Federal resources. The simplest way to use this tool is to ensure that the State match for any Federal funds is substantial, while ensuring that special consideration is given to the poorest States.

Finally, small communities simply cannot afford to have planning and technical experts on their town payrolls. Only some of the States have chosen to step in, through their environmental protection agencies, to provide this sort of desperately needed assistance. Much greater effort is needed in every State to ensure that all local jurisdictions are able to make cost-effective decisions as they struggle to comply with environmental requirements.

PROPOSED LEGISLATION

Each of the bills focused on small communities has some very attractive features. For instance, S. 1296, Senator Burdick's bill, includes integrating or consolidating rural water supply systems among the types of water supply improvements eligible for funding. The high cost per service unit that characterizes small systems and the difficulty in ensuring compliance has led several States, Washington, for one, to refuse to charter new small water supply systems. New small scale supply needs must be met by joining with a neighboring system. The applicable provision of this bill could encourage more States to take such action.

Senator Bentsen's bill, S. 1331, with its requirement for a 50 percent State match, meets admirably the criterion for a high level of State effort. This bill places responsibility in the Department of Agriculture, which is a customary umbrella agency for grant programs for small, rural communities. and allows funds to be used for more than one purpose, namely both water supply and wastewater treatment needs.

The wider scope of the environmental protection projects eligible for funding under S. 2184, introduced by Senator Baucus on behalf of a number of Senators, means that this bill goes further than the preceding two in meeting the range of needs communities actually face, as in the case of Rocksprings, Texas. Moreover, technical assistance efforts are eligible for funding under this bill.

Throughout our work on the special report, OTA found a high degree of tension between EPA and local governments. While EPA has continually emphasized its desire to be a partner to communities, the partnership seems highly unequal to the jurisdictions, with regulatory and enforcement action coming from the Federal side, and the funding coming primarily from localities, with inadequate assistance from States. Under S. 2184 responsibility for administering the grant program is placed with EPA, providing a much-needed balance to the agency's standard setting and enforcement roles.

The bill introduced by Senators Bradley and Lautenberg, S. 1514, is not specifically focused on small communities, and thus, happily, it provides some relief for other types of disadvantaged jurisdictions that OTA identified. For example, we concluded, after reviewing recent data, that a number of the Nation's largest and most venerable cities have problems that make them also cause for major concern. New York, Chicago, Boston, and Detroit, for instance, face massive costs for all types of services and large budget problems as well. OTA estimated that they too, are likely to face doubled costs for improving their environmental public works systems, both because they must build some new facilities to meet higher standards, and because their existing systems are very old and have not been adequately maintained. Leaks and sources of pollution often exist for years before they are identified and corrected, because systems were built long ago and no adequate records exist. These cities need additional help, and it is not clear that State funds will be adequate in many cases.

Compounding their difficulties, in many cases, are declining city populations, while the suburbs attract wealthier residents and relocating businesses. Such older cities are not able to assess private sector developers for new wastewater treatment facilities, as many rapidly growing jurisdictions have done so successfully. In fact they are more likely to offer a tax break to persuade a business or industry to locate there or to remain, rather than moving elsewhere.

S. 1514 allows such jurisdictions, as well as all others, greater latitude to explore a variety of creative funding options unavailable under current laws. Providing this capability for jurisdictions that need to upgrade facilities built using Federal funds is very much in line with the conclusions from OTA's work, and we commend the idea.

It has been a challenge and a pleasure (most of the time) to explore these difficult issues for Congress. We look forward to continuing discussions, and perhaps, some legislation to address public works problems. Thank you. I would be happy to answer questions.

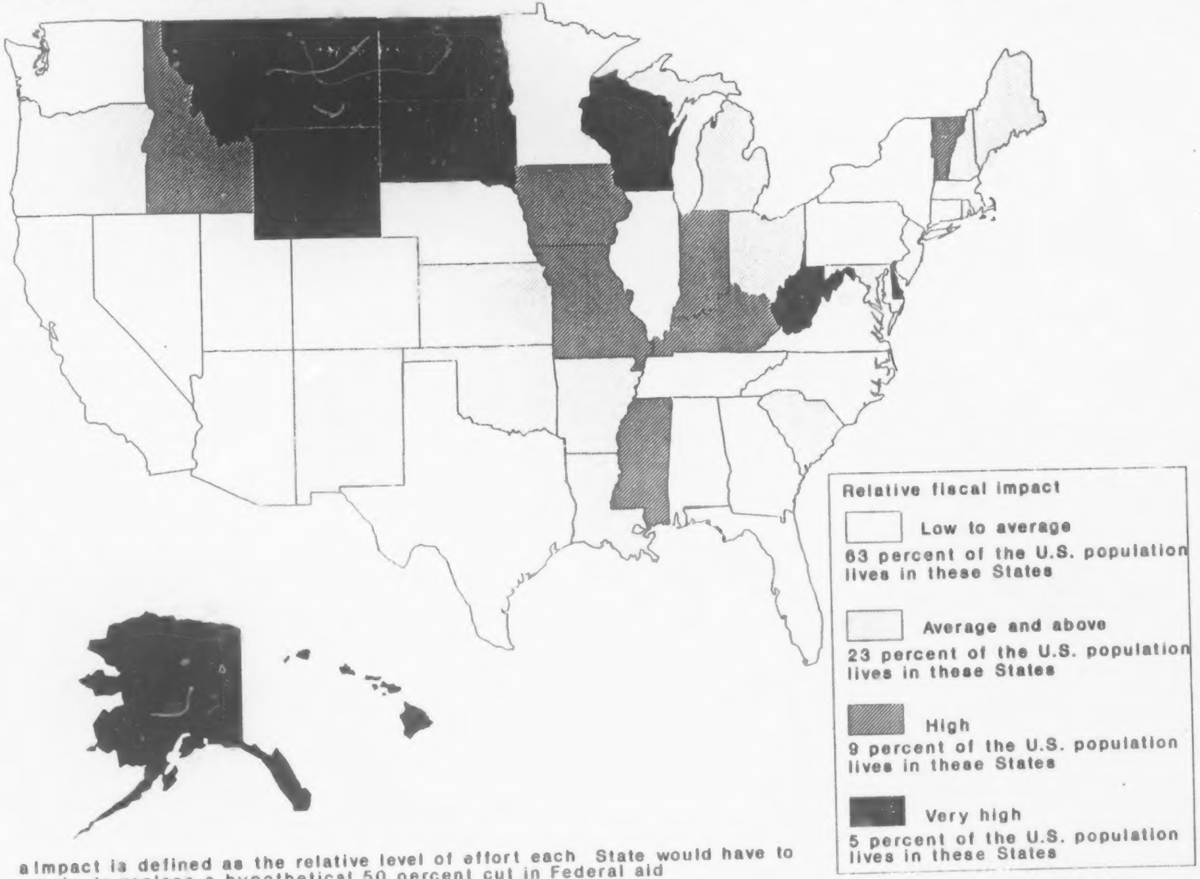
Table 1 – **Increase[a] in Household User Charges in Municipalities Attributable to Environmental Regulations[b]**

		Distribution of municipalities		
Size of municipality	Number of municipalities	Up to 50 percent increase in charges	50-100 percent increase in charges	Over 100 percent increase in charges
Up to 2,500	26,315	45	35	20
2,500 - 10,000	6,279	90	10	0
10,000 - 50,000	2,694	80	20	0
50,000 - 250,000	463	100	0	0
over 250,000	59	80	20	0
	Percent of all municipalities	56	29	15
	Percent of total population living in incorporated areas[c]	83	15	2

[a] No jurisdictions will have lower costs.
[b] Because of many simplifying assumptions, the potential increase in user charges may be under estimated.
[c] According to the 1982 Census of Governments, approximately 15 percent of the U.S. population live in unincorporated areas.

SOURCE: Office of Technology Assessment, 1990, based on data in U.S. Environmental Protection Agency, Office of Policy Planning and Evaluation, Municipalities, Small Business and Agriculture (Washington, DC: 1986), p. 2-14.

Figure 1-- Projected Impact on States of Reduced Federal Aid for the Environment [a]


Relative fiscal impact
Low to average
63 percent of the U.S. population lives in these States
Average and above
23 percent of the U.S. population lives in these States
High
9 percent of the U.S. population lives in these States
Very high
5 percent of the U.S. population lives in these States

[a] Impact is defined as the relative level of effort each State would have to make to replace a hypothetical 50 percent cut in Federal aid

Figure 2-- State Fiscal Capacity, 1986

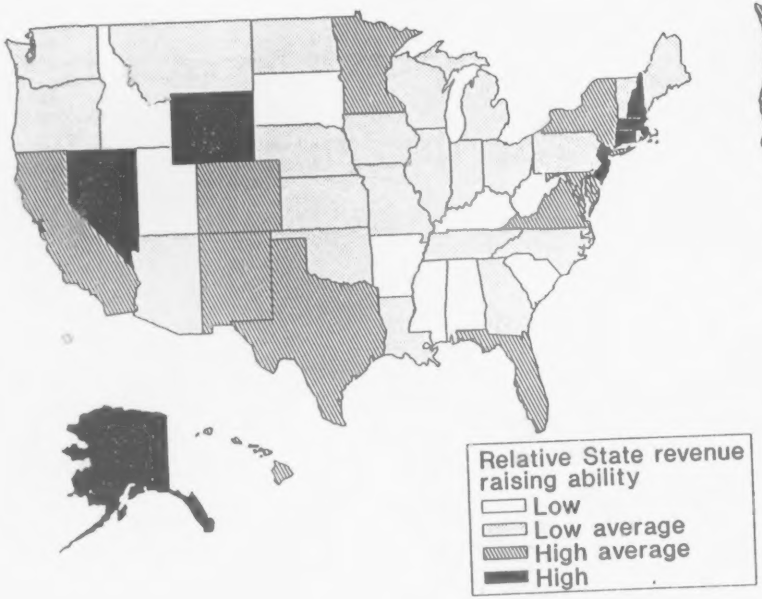
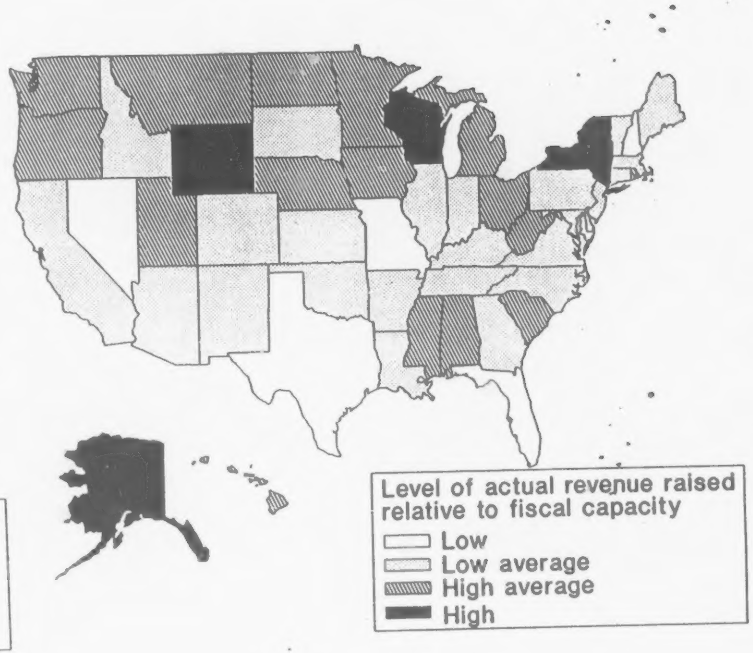

Relative State revenue raising ability
☐ Low
▨ Low average
▨ High average
■ High

Figure 3-- State Fiscal Effort, 1986


Level of actual revenue raised relative to fiscal capacity
☐ Low
▨ Low average
▨ High average
■ High

SOURCE: Office of Technology Assessment, 1990, based on Advisory Commission on Intergovernmental Relations data.

ASIWPCA

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Testimony of the

Association of State and Interstate
Water Pollution Control Administrators

Before The

Senate Committee on Environment and Public Works

May 1990

Subject: SMALL COMMUNITY FINANCING NEEDS

Association of State and Interstate
Water Pollution Control Administrators
Before The
Senate Committee on Environment and Public Works

May 1990

Mr. Chairman, members of the committee, I am Richard J. Sandberg, Chief of the Municipal Wastewater Treatment Section of the Minnesota Pollution Control Agency.

I appreciate the opportunity to appear before the Committee on behalf of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and the State of Minnesota to share the views of State administrators of the Clean Water Act programs on Senate Bills 2184, 1296, 1331, and 1514 regarding small community needs.

Infrastructure needs for wastewater, water supply, and solid waste management are difficult issues for large and medium size communities to address, but for small communities these needs can be monumental problems. With stiff competition for the limited Federal, State and Local funding available, some of these infrastructure needs may not be able to be addressed.

From the outset of the Clean Water Act Title VI State Revolving Loan Fund, the Association identified financially hard-pressed small communities as a major concern. Of the over 7,000 projects States have identified as potential State Revolving Loan Fund candidates over the next 4-5 years, 33% are small communities of generally 3,500 population or less. In Minnesota, 80% of the 854 incorporated cities have populations of less than 2500. These numbers demonstrate the potential magnitude of the problem facing Minnesota. And, all States have problems with financially hard-pressed communities to some degree.

Before commenting on the specifics of the bills, I'd like to provide some examples of environmental problems in Minnesota. Priorities of the Construction Grants program resulted in most of the money going to large cities -- leaving the wastewater treatment needs of many small communities unaddressed. We have currently identified 70 cities with populations under 2500 that have wastewater treatment needs. Of these, half have median household incomes that are less than 75% of the national median. For those that cannot afford a loan, wastewater treatment needs may simply have to be put on hold until they can find some kind of grant assistance. The resulting threat to public health as well as statewide water resources is a serious concern.

Many small cities in Minnesota also need improvement for their water supply systems. There are over 700 water supply systems operated by communities -- 75% serve populations of less than 2500. These systems uniformly report needs for rehabilitation of aging infrastructures, remediation of water quality problems and continuing maintenance activities. Age, as well as increasing detection of contaminants in the form of agricultural chemicals, volatile organic compounds and others are creating demands for new water supply systems that Minnesota small communities are hard pressed to meet.

General Principles

In the Committee's development of legislation to meet small community needs, the Association believes it is critical that:

1) **To the maximum extent possible, small community financing be addressed in the Clean Water Act State Revolving Loan Fund (SRF).** The Association does not support a return to the grant program, but recognizes the legitimate plight of some small communities because of financial hardship.

2) **To the extent that additional financing programs are needed, they should be an adjunct of the Clean Water Act SRF with as much cohesiveness and consistency as possible.** Proliferation of independent financial programs would be detrimental due to management inefficiencies and the need to maintain a coordinated strategy for accomplishing environmental goals.

3) **Future Federal legislation should not:**

   * **Detract from the need to fully fund and implement the Clean Water Act SRF.** Since there is currently no new funding for new Congressional programs, the Association is concerned that a program for small communities not be funded at the expense of the Clean Water Act SRF. To the extent that occurs, it would be more appropriate to simply:

     .. **Eliminate Title II requirements** placed on small communities as envisioned in the bills before this Committee, and

     .. **Allow some SRF funds to be used for grants,** perhaps up to the level of State match -- with some level of Federal subsidy.

   * **Delay facility compliance.** Any limited grant program should be focused solely on hardship small communities to assure that other communities without financial hardship do not misinterpret legislative intent and await the return of the grants program.

4) **Future Federal legislation should:**

   * **Give States broad flexibility to tailor funding mechanisms** to meet the needs of small communities -- the bills make significant progress in this regard.

   * **Capitalize a State program.** The need for Federal involvement is minimal. They are too remote from the beneficiaries immediate needs to be of much assistance -- except as a clearinghouse, e.g. for innovative approaches.

- **Minimize the requirements placed on small communities** due to the disproportionate increase in project costs and limited project management resources -- as the bills before this Committee appear to be designed to accomplish. However, it should be clarified that:
  - .. In addition to Title II requirements, existing and future **Federal crosscutting laws should not apply**, and
  - .. **Land should be an eligible cost.**
- **Allow a greater percentage of funds to be used for administration,** e.g. as proposed by S2184 and S1331. 4% of capitalization grants, as States have learned under the Clean Water Act SRF, is not adequate due to the complexities of such a program,
- **Broadly define "small community"** to include such entities as special benefit assessment districts.
- **Include conveyance systems** as a wastewater treatment eligibility.
- **Simplify audit requirements,** allowing the Single Audit Act of 1984 to apply -- which is designed to eliminate duplication and achieve greater audit coverage.

S. 2184

Of the bills before this Committee, the Small Community Environmental Assistance Act (S2184) is the most expansive -- directing funding toward communities for wastewater, water supply, and solid waste. Obviously, more environmental infrastructure needs can be met using such an approach with a level of efficiency in terms of management/oversight and financing costs, since communities can have several infrastructure needs. However, States where authorities for these programs are not housed in the same place, may encounter difficulty setting up the funds.

Cohesiveness -- States have demonstrated their ability to manage SRFs under Title VI of the Clean Water Act. Minnesota, for example, has implemented a program leveraging the Federal dollars received so that we can make loans for nearly three times the amount of our SRF capitalization grant to address wastewater treatment needs. Given that many States have revolving fund programs, it is important to give the States the flexibility to "piggy back" the revolving funds aspects of S2184 onto existing programs. And, the grants aspects of the bill should be awarded by the States from the fund. States should be able to administer the S2184 program under their Clean Water Act SRF structure.

Flexibility -- Effectiveness of the bill will depend on States' ability to maintain control over the funds allotted and coordinate with the SRF programs which have already been established by the vast majority of States. Each State faces a unique set of pollution problems which can best be placed in priority by the State. S2184 appears to allow this flexibility, within the context of intended use plan development, but that intent should be clarified so as not to be misinterpreted.

USEPA Management -- Management of loan funds is extremely complex, highly specialized, and technical. Available USEPA expertise is very limited and cohesiveness among financing programs should be maintained. Therefore, the S2184 program should be managed with the Clean Water Act SRF. A new USEPA program office is unnecessary and is likely to encourage bureaucracy and significantly delay implementation.

Grants -- The provision that States may use a portion of their allocation for grants is obviously important to the goals of S2184. We recognize that low-interest loans by themselves may not provide enough financial assistance to enable some small communities to proceed with necessary wastewater, water supply, and solid waste improvements. However, to maintain the corpus of the fund, expedite compliance and maximize the use of Federal funds -- the legislation should seek to blend grants and loans as needed to achieve the desired percent of median household income. For example, Minnesota believes all their hardship communities should receive a loan under the bill. The degree of project coverage by the grant portion would vary with their financial capability. Otherwise, there will be very little incentive to accept a loan.

State Match -- In some States (who are likely to have a high proportion of hardship communities) a 25% match may be too high. In the interests of consistency with the Clean Water Act, a 20% match may be appropriate.

Requirements -- The Association welcomes the simplification of requirements placed on small communities here and in S1296 and 1331.

Terms -- A 30 year loan term -- or the life expectancy of the facility -- as well as the commencement of payments no later than 3 years after project completion should provide significant relief for small communities.

Administrative Cost -- 4% of the balance of the fund is allowed for administrative costs. "Balance of the fund" needs further definition, since funds are likely to include not only cash, but "paper".

"Small Community" -- While a 2,500 cut off in population may be appropriate for many States, there are others where a higher cut off may be advocated. However, a community 3,500 in size ceases to be a small community.

"Disadvantaged" -- It may be more meaningful, given the diversity of States, to define hardship as a percentage of State (vs. national) median household income.

"Payment" -- States strongly support the requirement that capitalization grant payments to the States be in cash (US Treasury check) 8 quarters after State obligation or 12 quarters after allotment to the State -- whichever is earlier. This reduces the uncertainty and minimizes cost. Projects in small communities can be constructed relatively quickly.

Investor Owned Systems -- The appropriateness of the eligibility of such systems is open to debate and Federal tax law limits the use of tax exempt bonds for private purposes. Any loans provided should be at taxable market interest rates.

Planning Setaside -- The intended use of the setaside is not clear in the bill. Is it for facility planning and design?.

Solid Waste -- The trend in disposal of small community waste is towards regionalization. While such communities may not build their own facilities, the bill could be clarified on how the Fund could be used to finance their share of a regional initiative.

Technical Assistance -- There is a significant need for technical assistance to small communities. However, States need to be the primary providers, since these towns require very personalized attention. A new program at USEPA will accomplish little, except as a clearinghouse function. States should be allowed to use some funds authorized for that purpose.

S. 1296

The Rural Water Supply Assistance Program proposed, in seeking to simplify revolving loan requirements for small communities, makes considerable progress. However, administration by the Secretary or the Army, rather than USEPA, may lead to some inconsistencies with the Clean Water Act SRF in communities to which both will apply.

Match -- As previously discussed, a 30% State match may not be appropriate.

Payment -- Payment to the State of funds allotted should be defined as cash payment.

Administration -- Based on Clean Water Act experience, 4% of all grant awards may not be adequate to manage the fund, unless it applies cumulatively each year to prior awards. And, once grants cease, the provision may allow no funding for administration (4% of zero is zero).

Reports -- Since it took 3 years to get the SRF operational in the majority of States and program development was problematic, a Report to Congress may be more meaningful 4 years, rather than one year, from enactment.

S. 1331

S. 1331 provides a streamlined framework for a revolving loan/grant fund for wastewater and water supply to communities bordering Mexico. In addition to the above comments regarding the relationship to the Clean Water Act SRF, State match, cash payments, interface of grants and loans, and loan terms:

Jurisdiction -- We question the appropriateness of a geographically limited approach.

Match -- It is not clear (in addition to the 20% State match to capitalized the fund), how and to what the 50% Federal share required applies.

Administrative Costs -- The allowance of reasonable State administrative costs as an eligible expenditure resolves the problem States experience under the Clean Water Act.

Grants -- It is not clear how States would demonstrate that grant making will "not impair the maintenance of the total Federal and State deposits".

Oversight -- In addition to the intended use plan, other required agreements, payment schedules, and annual State reports -- an annual Federal oversight review appears to be duplicative and unduly burdensome.

S. 1514

S1514 allows communities to issue debt for publicly owned wastewater treatment works funded by the Clean Water Act, pledging the revenues as security -- with proceeds to be used for the facility, rate payer benefits, or other environmental infrastructure. The Association is concerned that such debt not conflict with:

* previously negotiated SRF loan conditions or the community's ability to repay the loan, or

* the community's ability to meet its wastewater treatment needs and Clean Water Act compliance responsibilities in the future.

The criteria for State approval of such debt issuance should take such factors into account. The implications of Federal Tax Law on the ability to grant security interests to private parties for equipment, facilities or plants funded under the Clean Water Act with tax exempt debt should be clarified.

In conclusion, a comprehensive approach to funding environmental program infrastructure is worthy of consideration for small communities most in need of financial assistance, that cannot meet all their obligations using current funding mechanisms. However such action should not undermine the Clean Water Act State Revolving Loan Fund or fragment the overall financing program. States need to be clearly allowed to establish priorities based on their specific environmental and public health concerns. The key to success in meeting small community needs lies with flexibility that can only be attained by giving individual States control over program design and operations. Any program structured needs to be closely allied with the Clean Water Act State Revolving Loan Fund to produce one cohesive funding strategy. The law and the legislative history need to clearly allow States to use the Clean Water Act State Revolving Loan Fund structure to administer a small community program, rather than requiring a separate entity.

Again, Mr. Chairman, the Association of State and Interstate Water Pollution Control Administrators and the State of Minnesota appreciate this opportunity to discuss the State perspective. I would be happy to answer any questions which you or other members of the Committee may have.

Statement of

Steven Levy

Program Manager, Maine Rural Water Association
on behalf of the National Rural Water Association

before the

Senate Committee on Environment and Public Works
Washington, D.C.

May 15, 1990

Subject: Financing of Environmental Protection Facilities

Mr. Chairman, my name is Steven Levy. I am the Program Manager of the Maine Rural Water Association. I am here today on behalf of the National Rural Water Association, its 45 affiliated state rural water associations and their 8,400 member water systems. I am also representing the 115 small water systems in Maine who belong to our organization and to our small communities who need new or improved water, waste-water and solid waste management facilities.

National Rural Water Association is a federation of state associations who provide training and one-on-one technical and management assistance to small water systems across their state. These associations are directed by small and rural water systems to ensure an effective and appropriate training and technical assistance program to all small systems in the state. In addition, peer related technical assistance networks are encouraged between water systems to support one another with Safe Drinking Water Act (SDWA) compliance, operations, and financial problems. It is a method of technical aid which proves itself every day across this country. Nationally, 38,327 on-site visits were made last year by the association's staff and 27,894 rural water people attended grassroots training sessions. It is our experience that small rural water systems are trying hard to improve the quality of drinking water in their communities.

While my remarks tend to focus on Maine's water systems, I believe they are relevant for most small community facilities across the country. Each facility in all of our states is special and unique, yet still all share basic similarities.

The need for new, improved and/or replacement wastewater, potable water treatment plants and solid waste facilities is growing by astronomical proportions. This need is the direct result of state and Federal rulemaking, environmental legislation and the natural depreciation of older facilities. These rules demonstrate the country's increased commitment to the environment and to our citizen's health. However, complying with these rules is also very expensive and requires massive outlays of capital and the acquisition of new debt.

The financing of this environmental infrastructure presents special difficulties to small units of government. All facilities are expensive to build and to maintain. Rural communities simply do not have enough customers to share these costs at affordable levels. Even the smallest project can be a financial burden when only a few people provide the revenue to retire the debt. While it costs about the same to run one thousand feet of water transmission line for a district of 100 customers as it does for a district of 5,000, the latter has 50 times the customer base to spread the cost. In particular, it is difficult for rural non-profit water systems whose only source of funding is the FmHA grant and loan program.

Small communities face a rash of other problems when financing debt, including proportionately higher borrowing costs, limited management experience, inability to obtain bond ratings and difficulty in obtaining loans. Facilities serving economically disadvantaged areas have additional problems securing financing.

The principal funding resource for assisting small water systems has been the Farmers Home Administration Grant and Loan Program. With $209 million in grants and $375 million in loans last year, the program has been absolutely essential to the improvements made in rural water systems in every state. We strongly urge the Committee to support the continuation of this program at increased funding levels.

Approximately fourteen (14%) percent of the population in Maine is below the poverty level. Rural areas have a higher proportion of elderly people than our urban areas, as well as a higher proportion of poverty. Additionally, many small towns in Maine are now losing their manufacturing base due to plant closing. According to the 1980 Census, 59% of the rural households in Maine were below the national medium household income.

Our small towns daily face new requirements to repair, to rebuild and to improve their infrastructure. They want to comply with drinking water and waste water quality requirements in order to protect their citizens' health, their livelihood and their environment. They also understand that they must be able to afford these improvements and they want to know how they are going to be able to comply.

The Environmental Protection Agency's Surface Water Treatment Rule is a case in point. In Maine, 65 communities with surface water supplies have been notified that they must provide water filtration, qualify for an exemption or switch to ground water by June 1993. The purpose of this rule is to prevent micro-organisms from contaminating their drinking water. The estimated cost of compliance in Maine is between $300 million and $500 million for this rule alone.

The town of Andover is located in the hills of western Maine. It had a population in 1980 of 850 people. There is a quasi-municipal water district in the built-up portion of town which provides good water service to 138 customers and fire protection to the town. They have a surface water supply and uncovered water storage facilities. They are approximately 10 miles from the nearest town. The estimated cost of compliance for this district is $800,000.

Andover does not qualify for any existing grant assistance. If they were to take a loan from the Farmers Home Administration, they could borrow the money at tax exempt interest rates of

7 1/8%. The annual cost for principal and interest is $60,888 or $441 per customer. The average water customer is currently paying $128 per year to purchase water. It might also be noted that the pressure in the present system is provided by gravity and that pumping from a new well will significantly increase electrical costs. What are we to tell our friends in Andover about their new $600 per year water bill?

Winter Harbor's story is a bit different. They have a surface water supply and a covered water storage tank. However, since the utility has a private owner, they are ineligible for tax exempt financing or grant assistance. They need about $750,000 to install a water filtration plant to comply with the rules. One could modestly assume that the company could not borrow money for less than 12% for a period of 20 years. Annual principal and interest payments are $100,410. That is quite a lot of debt for Winter Harbor's 300 water customers to support. The water company will also see greatly increased costs of operation, maintenance and depreciation of some very sophisticated pieces of equipment. Water rates will probably approach $600 per year. The average water bill in Maine is now about $135 per year.

Winter Harbor is a disadvantaged small community. According to the 1980 census, the median household income is $10,484, far below the poverty level. As their water rates climb, one can expect the more affluent members of the community to install their own wells. This will leave fewer and poorer customers to pay the debt service and operating costs. Rates will climb again. Winter Harbor does not have a neighboring system to link with nor is it likely the Public Utilities Commission will give them permission to abandon service.

Maine has 23 private utilities with a surface water source. Seventeen of these utilities serve fewer than 500 customers. These small utilities are ill-equipped to finance, engineer, install, and operate expensive facilities.

The Surface Water Treatment Rule is responsible for only a portion of the increased expenses in rural America. Small and rural community residents are not only looking at the potential tripling of their water bills, they are witnessing large increase in sewer fees, in solid waste disposal costs and in property taxes.

A condition is evolving in Maine and across the country where rural people will not be able to comply with regulatory expenses, will not be able to replace worn out facilities and will not be able to protect their health, well-being and environment because of financial limitations. Simple economics precludes compliance. Rural America needs your help.

The bills before us take an important first step in solving this problem. I hasten to point out that small communities need grant money as well as access to loan funds and to interest rate reductions. Many of the water systems we work with cannot afford to complete required improvements at even 0% interest rates. These important projects require grant money to be financially viable. Finally, and most importantly, many rural water systems throughout the country are non-profit districts created to qualify for FmHA grants and loans. These non-profit systems have not been eligible to issue tax exempt bonds, which would greatly reduce their borrowing costs, and are not specifically eligible under this legislation. NRWA strongly urges the Committee to amend all four bills to specifically qualify FmHA eligible non-profit water systems for participation in the revolving infrastructure assistance program and to qualify for the exempt financing.

Thank you very much.

WRITTEN STATEMENT OF THE COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES SUBMITTED TO THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

WASHINGTON, D.C.
MAY 15, 1990

THE COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES APPRECIATES THE OPPORTUNITY TO PROVIDE WRITTEN COMMENT ON LEGISLATION TO ASSIST SMALL COMMUNITIES IN FINANCING ENVIRONMENTAL PROTECTION FACILITIES. THE COUNCIL IS A NON-PROFIT ASSOCIATION OF PUBLIC FINANCING AUTHORITIES DEDICATED TO IMPROVING THE AWARENESS AND UNDERSTANDING OF INFRASTRUCTURE FINANCING ISSUES AND DEVELOPMENTS AFFECTING THE STATES. A PRIMARY OBJECTIVE OF OUR GROUP IS TO BRIDGE ENVIRONMENTAL AND FINANCIAL INTERESTS IN SUPPORTING THE DEVELOPMENT OF NATIONAL POLICIES ON PUBLIC-PURPOSE INFRASTRUCTURE.

BEFORE US AT THE OUTSET IS THE QUESTION OF WHY A SEPARATE PROGRAM SHOULD BE CREATED FOR FINANCING SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE. WE SUGGEST SEVERAL REASONS. FIRST, THE "NEEDS" OR CAPITAL SPENDING REQUIREMENTS OF SMALL COMMUNITIES MAY NOT BE RELATIVELY LARGE ON AN AGGREGATE BASIS; BUT THEY NONETHELESS REPRESENT A SIGNIFICANTLY GREATER BURDEN FOR INDIVIDUAL HOUSEHOLDS. THIS OCCURS BECAUSE OF HIGHER PER CAPITA NEEDS IN DIRECT CONTRAST TO TYPICALLY A LOWER CAPABILITY TO PAY ON A COMMUNITY AND HOUSEHOLD BASIS.

NEXT, OVER THE PAST 20 YEARS FEDERAL FINANCIAL ASSISTANCE TARGETED AT SMALL COMMUNITY, RURAL INFRASTRUCTURE HAS EVOLVED INTO TODAY'S SET OF LOOSELY COORDINATED, AND DUPLICATIVE PROGRAMS. OFTEN ESTABLISHED FOR DIFFERENT PURPOSES BUT FUNDING THE SAME TYPES OF INFRASTRUCTURE, THESE PROGRAMS HAVE DISBURSED HUNDREDS OF MILLIONS OF DOLLARS IN GRANTS AND LOANS. DURING THE 1980'S THE TWO MAJOR AGENCIES INVOLVED SUFFERED SIGNIFICANT CUTBACKS IN THEIR

APPROPRIATION LEVELS. THE RURAL DEVELOPMENT POLICY PROJECT OF THE CENTER FOR COMMUNITY CHANGE DETERMINED THAT EXPENDITURES FROM EPA'S CONSTRUCTION GRANTS PROGRAM FOR WASTEWATER TREATMENT DECLINED IN CONSTANT DOLLARS BY 91 PERCENT BETWEEN 1981-87. AMENDMENTS IN 1981 TO THE CLEAN WATER ACT ALSO RESTRICTED ELIGIBILITIES FOR FUNDING AND REDUCED THE FEDERAL GRANT SHARE FROM 75 TO 55 PERCENT.

TODAY THE CONSTRUCTION GRANTS PROGRAM IS BEING PHASED OUT AND REPLACED BY STATE REVOLVING LOAN FUNDS (SRF) WHICH WILL BE CAPITALIZED IN PART WITH FEDERAL GRANTS THROUGH 1994. THE FEDERAL REQUIREMENTS GOVERNING STATE OPERATION OF THESE PROGRAMS, HOWEVER, WERE NOT ADOPTED WITH SMALL COMMUNITIES IN MIND, AND THE PROGRAMS HAVE NO SPECIAL FEATURES TARGETED SPECIFICALLY TO HELP THEM. ANOTHER DRAWBACK IS THAT THE TITLE VI SRFs CAN ONLY PROVIDE ASSISTANCE FOR WASTEWATER TREATMENT FACILITIES ELIGIBLE UNDER TITLE II.

SIMILARLY, THE FARMERS HOME ADMINISTRATION SAW A REDUCTION IN THE FUNDING OF ITS RURAL DEVELOPMENT PROGRAM OF 69 PERCENT FROMF $1.7 BILLION IN 1981 TO $490 MILLION IN 1987.

THE OVERALL CUTS ALSO FUELED A TREND TO FEWER, SMALLER LOANS IN THE FmHA PROGRAM. THE AVERAGE SIZE OF A LOAN FELL BY NEARLY 40 PERCENT. OF PARTICULAR IMPORTANCE WITH THIS TREND HAS BEEN A SHIFT IN FmHA LOAN AND GRANT FUNDS TO MORE FINANCIALLY CAPABLE COMMUNITIES. THE RURAL DEVELOPMENT POLICY PROJECT FOUND THAT ONLY

ONE AND A HALF PERCENT OF AVAILABLE FUNDS AT THE POVERTY LEVEL RATE WENT TO BELOW-POVERTY LEVEL COMMUNITIES, A DECLINE FROM 5 PERCENT OF THE FUNDS IN 1985. AT THE NEXT HIGHER LOAN RATE OF 5 PERCENT, ONLY 14.3 PERCENT OF AVAILABLE FUNDS IN 1988 WENT TO COMMUNITIES AT OR BELOW 80 PERCENT NATIONAL MEDIAN HOUSEHOLD INCOME LEVELS, OFF FROM 46 PERCENT OF FUNDS AS RECENTLY AS 1985.

THESE DATA INDICATE THAT ALONG WITH ACROSS THE BOARD CUTBACKS IN SUBSIDY LEVELS HAVE COME TRANSFERS OF REMAINING GRANT FUNDS AWAY FROM SMALL COMMUNITIES. OF THOSE FUNDS STILL AVAILABLE TO SMALL COMMUNITIES, SHIFTS FROM GRANTS TO LOANS AND LOAN GUARANTEES HAVE OCCURRED ALONG WITH AN INCREASING TENDENCY TO AWARD THE LATTER TO WEALTHIER COMMUNITIES. IN OTHER WORDS, GREATER EMPHASIS IS BEING PLACED ON REDUCING RISK AND COST IN THE DELIVERY OF LOAN ASSISTANCE. A CONCERN WITH DEFAULTS AND ATTEMPTS TO INCREASE LOCAL FINANCIAL COMMITMENTS ARE TWO PROBABLE CONTRIBUTING FACTORS. THIS SET OF TRENDS CAN ONLY AGGRAVATE THE SITUATION FOR THOSE LEAST ABLE TO PAY.

THIRD, THE CHRONIC AND HIGH RATES OF NONCOMPLIANCE OF SMALL COMMUNITIES WITH PUBLIC HEALTH AND ENVIRONMENTAL STANDARDS HAS TO BE OF PRESSING CONCERN TO THE FEDERAL GOVERNMENT. AT PRESENT THERE IS LITTLE REASON TO BELIEVE THAT THIS SITUATION WILL IMPROVE. INDEED, NONCOMPLIANCE WILL LIKELY WORSEN. ACCOMPANYING THIS TREND WILL BE A SHARP INCREASE IN REQUESTS FOR WAIVERS, EXTENSIONS, AND EXEMPTIONS EVEN IF CURRENT LAW DOES NOT PROVIDE SUCH RELIEF. THERE WILL BE MOUNTING PRESSURE TO PROVIDE REGULATORY RELIEF TO SMALL

COMMUNITIES AND TO RIGOROUSLY EVALUATE THE IMPACT OF PROPOSED RULES ON SMALL ENTITIES.

MANY GOVERNMENTS WILL COME TO VIEW CAPITAL NEEDS, AND NO PRACTICAL WAY TO MEET THEM, AS A ROCK AND A HARD PLACE SITUATION. HARSH OR STRICTER FEDERAL ENFORCEMENT IS HARDLY LIKELY OR PRODUCTIVE. IN THIS ENVIRONMENT CYNICISM BREEDS AND THE CREDIBILITY OF IMPORTANT LAWS IS HELD OPEN TO QUESTION. ONE OF THE MORE PERPLEXING IS WHETHER ADEQUATE PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION, AS DEFINED BY THE FEDERAL GOVERNMENT, IS ONLY GOING TO BE AVAILABLE ON AN ABILITY TO PAY BASIS.

TURNING TO THE LEGISLATION BEFORE THIS COMMITTEE, THERE ARE SEVERAL VERY IMPORTANT IDEAS CONTAINED IN THE BILLS. WE STRONGLY ENDORSE THE STATE REVOLVING FUND MODEL AS THE BASIS FOR A SMALL COMMUNITY PROGRAM. AS STATE-RUN PERMANENT PUBLIC BANKS THEY WOULD BE UNIQUELY SITUATED TO CRAFT AND DELIVER A VARIETY OF ASSISTANCE ON AN AS NEEDED BASIS. AT THE SAME TIME THE PRIMARY USE OF LOANS WILL HELP ENCOURAGE (AND SECURE) THE ESSENTIAL LONG-TERM FINANCIAL COMMITMENT OF RECIPIENT COMMUNITIES, HELPING THEM MOVE TOWARD GREATER SELF-SUFFICIENCY.

ANOTHER ESSENTIAL IDEA WE SUPPORT IS THE AUTHORITY OF THE PROPOSED SMALL COMMUNITY POLLUTION CONTROL REVOLVING FUNDS TO FINANCE SEVERAL TYPES OF ENVIRONMENTAL INFRASTRUCTURE. THIS MAKES SENSE

BECAUSE NEEDS ARE RISING ACROSS THE BOARD FOR WATER, WASTEWATER AND SOLID WASTE FACILITIES. MULTIPLE ELIGIBILITIES ALSO ENCOURAGES INTEGRATED PLANNING AND SCHEDULING OF CAPITAL CONSTRUCTION AND ADDS SIGNIFICANTLY TO STATE OPERATING FLEXIBILITY TO BEST MEET THE NEEDS.

THE LEGISLATION ALSO RECOGNIZES THAT SMALL COMMUNITY FINANCING ISSUES ARE NOT SOLVED BY SIMPLY THROWING MONEY AT THEM. TECHNICAL ASSISTANCE-OR OUTREACH- IS FUNDAMENTALLY IMPORTANT TO THE SUCCESS OF ANY FINANCIAL ASSISTANCE PROGRAM AND SHOULD BE BOTH COMPLEMENTARY AND INTEGRAL TO ITS FUNDING DECISIONS.

WE BELIEVE THE COMMITTEE'S CONSIDERATION OF THESE BILLS OFFERS AN OUTSTANDING OPPORTUNITY TO APPLY LESSONS LEARNED FROM THE CLEAN WATER ACT TITLE VI REVOLVING FUND EXPERIENCE TO DATE.

GENERALLY, THE LEGISLATION PROVIDES FOR AN "INSTRUMENTALITY" OR "ENTITY" OF THE STATE TO ADMINISTER THE REVOLVING FUND. WHILE THIS PROVISION IS SIMILAR TO THAT OF TITLE VI, IT HAS BEEN MADE ABUNDANTLY CLEAR FROM THE PROCESS TO DATE THAT THE ENVIRONMENTAL PROTECTION AGENCY HAS STRONG PREFERENCES AS TO WHICH STATE AGENCY SHOULD RECEIVE THE CAPITALIZATION GRANT--EVEN TO THE POINT OF EXPLICITLY OVERRIDING THE DECISION OF THE GOVERNOR. INDEED, THESE FEDERAL ADMINISTRATIVE PREFERENCES HAVE SERVED IN SOME INSTANCES TO DELAY CREATION OF THE REVOLVING FUNDS. WE SUGGEST THAT ANY SRF LEGISLATION

MAKE IT UNQUESTIONABLY A PREROGATIVE OF THE STATE WITH RESPECT TO WHICH INSTRUMENTALITY SHALL ADMINISTER THE FUND SO AS LONG AS IT HAS THE NECESSARY POWERS TO OPERATE THE FUND IN ACCORDANCE WITH STATUTORY REQUIREMENTS. THIS DISCRETION IS MADE EVEN MORE CRITICAL TO THE SUCCESS OF THE SMALL COMMUNITY PROGRAM WITH THE AVAILABILITY OF MULTIPLE ELIGIBILITIES THAT MAY CUT ACROSS EXISTING BUREAUCRATIC LINES OF CONTROL. STATE DISCRETION ALSO RECOGNIZES THAT MANY STATES ALREADY HAVE INFRASTRUCTURE FINANCING PROGRAMS, SUCH AS BOND BANKS, THAT THE STATE MAY WISH TO USE TO ADMINISTER THE REVOLVING FUND.

FEDERAL ADMINISTRATION OF THE PROGRAM MAY NOT ONLY SERVE AS A COUNTERWEIGHT TO STATE DISCRETION, BUT MAY ITSELF HAVE INHERENT WEAKNESSES. WHEN A SINGLE AGENCY, FOR EXAMPLE, HAS BOTH REGULATORY AND FINANCIAL ASSISTANCE RESPONSIBILITIES, THE RESULTS CAN BE DYSFUNCTIONAL. THE SO-CALLED CARROT AND STICK APPROACH FAILS WHEN THE "STICK" IS THERE BUT NOT THE "CARROT". THIS OCCURS WHERE:

- COMMUNITIES ARE DENIED, OR DO NOT HAVE ACCESS TO, TECHNICAL ASSISTANCE FOR A PROJECT BECAUSE OF THE POSSIBILITY OF ENFORCEMENT ACTION FOR NONCOMPLIANCE;

- COMMUNITIES ARE DENIED FINANCIAL ASSISTANCE REQUIRED TO ACHIEVE COMPLIANCE BECAUSE OF RESTRICTIONS PLACED ON ELIGIBILITIES FOR FUNDING; AND

- COMPLIANCE IS MANDATED REGARDLESS OF THE AVAILABILITY OF FINANCIAL ASSISTANCE NECESSARY TO ACHIEVE IT.

WE URGE THE COMMITTEE TO CONSIDER AS AN ALTERNATIVE INSTITUTIONAL OPTION CREATING A SEPARATE FINANCIAL AND TECHNICAL ASSISTANCE PROGRAM FOR SMALL COMMUNITIES. SUCH AN ANALYSIS MIGHT EXTEND TO A NEW NATIONAL INSTITUTION SOLELY DEVOTED TO HELPING STATES HELP SMALL COMMUNITIES BUILD ENVIRONMENTAL INFRASTRUCTURE. THE PROGRAM WOULD COMBINE IN A SYNERGISTIC FASHION FINANCIAL AND TECHNICAL OUTREACH IN CRAFTING ASSISTANCE TO MEET THE NEEDS FOR SEVERAL KINDS OF ENVIRONMENTAL PROTECTION FACILITIES.

EARLIER THIS YEAR, CIFA CONDUCTED A SURVEY OF STATE OFFICIALS INVOLVED WITH IMPLEMENTATION OF THE TITLE VI SRF PROGRAMS. WE RECEIVED RESPONSES FROM 89 PERCENT OF THE STATES THAT HAVE RECEIVED CAPITALIZATION GRANTS TO DATE. ESSENTIALLY THE SURVEY POSED CERTAIN AMENDMENTS TO CONTROVERSIAL PROVISIONS OF TITLE VI AND WE BELIEVE THE FINDINGS ARE RELEVANT TO THE PROPOSAL FOR SMALL COMMUNITY REVOLVING FUNDS. (A COPY OF THE SURVEY AND RESULTS IS APPENDED TO THIS TESTIMONY.)

THE FIRST ISSUE DEALS WITH HOW AND WHEN FEDERAL GRANT FUNDS ARE TRANSFERRED TO THE SRF. IDEALLY, THE GRANT PAYMENTS SHOULD BE MADE ON SOME PREDICTABLE SCHEDULE IN THE FORM OF CASH. THIS WAS THE ORIGINAL NOTION IN TITLE VI TO QUICKLY CAPITALIZE THE FUNDS, LEND STABILITY TO THEIR OPERATIONS AND PROMOTE LEVERAGING. DISBURSING CASH IN ADVANCE OF ACTUALLY INCURRING COSTS IS PARTICULARLY

IMPORTANT TO MANY SMALL COMMUNITIES WHICH FOR A NUMBER OF REASONS MAY NEED CASH UP FRONT. ONE COMMON PROBLEM THEY FACE IS LITTLE OR NO ACCESS TO SHORT-TERM FINANCING. IF THE PRESENT "LETTER OF CREDIT" APPROACH IS EMPLOYED FOR THE SMALL COMMUNITY REVOLVING FUND PROGRAMS, WE URGE THAT CASH DRAWS BY THE SRF BE ALLOWED AT THE TIME IT ENTERS INTO A BINDING COMMITMENT WITH A COMMUNITY.

ANOTHER ISSUE OF IMPORTANCE TO SMALL COMMUNITIES IS THE ELIGIBILITY OF LAND. THE CLEAN WATER ACT DOES NOT ALLOW THE USE OF FEDERAL FUNDS FOR THE PURCHASE OF LAND NECESSARY FOR THE SITING OF TREATMENT WORKS AND ACQUISITION OF EASEMENTS, UNLESS THE LAND IS AN "INTEGRAL" PART OF THE TREATMENT SYSTEM. LAND ACQUISITION COSTS MAY COMPRISE A LARGE PART OF THE BUDGET FOR A SMALL COMMUNITY PROJECT AND WE RECOMMEND THAT IT BE AN ELIGIBLE COST.

OUR SURVEY ALSO POSED A SMALL COMMUNITY AMENDMENT TO THE TITLE VI PROGRAM, PROVIDING FOR LOANS AMORTIZATION UP TO 40 YEARS AND FOR DEFERRAL OF THE REPAYMENT OF PRINCIPAL AND INTEREST UP TO 5 YEARS. THIS PROMPTED THE GREATEST DIVERSITY OF COMMENT FROM THE RESPONDENTS, INDICATING VARYING STATE POLICIES AND PERCEPTIONS. IT ALSO SHARPLY UNDERSCORES THE NEED TO BUILD IN FLEXIBILITY FOR EACH STATE TO RUN THE PROGRAM AS IT SEES FIT. ONE SPECIFIC EXAMPLE IS FOUND WITH THE DEFINITION OF SMALL COMMUNITY. WE FOUND VERY LITTLE AGREEMENT OF JUST WHAT IS A SMALL COMMUNITY WITH SUGGESTED POPULATIONS RANGING UP TO 50,000. GIVEN THIS DIFFERENCE OF OPINION OUR SUGGESTION IS TO ALLOW EACH STATE TO DEFINE THE POPULATION OF A SMALL COMMUNITY ELIGIBLE FOR ASSISTANCE.

ANOTHER MATTER OF THE SURVEY DEALT WITH ADMINISTRATIVE COSTS. WHILE S.2184, FOR EXAMPLE, CONSIDERABLY IMPROVES UPON TITLE VI BY ALLOWING THE SRF TO USE UP TO 4 PERCENT OF THE BALANCE OF THE FUND, THE USE OF A CAP IS UNNECESSARY. THESE PROGRAMS ARE BASICALLY BEING RUN ON A CERTIFICATION BASIS WHERE THE STATE HAS FULL RESPONSIBILITY FOR THE OPERATION OF THE REVOLVING FUND. EACH STATE SHOULD BE ABLE TO PAY FOR ITS ADMINISTRATIVE COSTS WITHOUT BEING SUBJECT TO AN ARBITRARY LIMIT.

THE MOST SIGNIFICANT ISSUE OVER THE LONG-TERM, HOWEVER, IS THE DURATION AND EXTENT OF FEDERAL OVERSIGHT OF THE SRF PROGRAMS, WHETHER THEY ARE TITLE VI OR FOR SMALL COMMUNITIES. NINETY-THREE PERCENT OF THE SURVEY RESPONDENTS FAVORED LIMITING FEDERAL OVERSIGHT OF THE TITLE VI SRF PROGRAM TO THE FEDERAL CAPITALIZATION PERIOD. WITHOUT THIS BEING MADE EXPLICIT, THE FEDERAL OVERSIGHT OF THE SRF PROGRAMS IS POTENTIALLY IN PERPETUITY, LONG AFTER FEDERAL FUNDS HAVE CEASED FLOWING IN. THIS MAKES LITTLE SENSE FOR THE TITLE VI OR SMALL COMMUNITY PROGRAMS. STATES SHOULD BE REQUIRED TO CONDUCT OVERSIGHT OF THE PROGRAM, UNDER THE SINGLE AUDIT ACT, AND USE OTHER REPORTING MECHANISMS, BUT STATE OVERSIGHT SHOULD NOT BE HELD VULNERABLE TO SECOND-GUESSING BY A DUPLICATIVE FEDERAL PRESENCE.

AS A CLOSING POINT WE WOULD LIKE TO EMPHASIZE TO THE COMMITTEE THE FAR-REACHING EFFECTS THAT FEDERAL TAX POLICY HAS ON SRF PROGRAMS IN GENERAL. MANY SRFs WILL EVENTUALLY "LEVERAGE" THEMSELVES BY THE SALE OF TAX-EXEMPT BONDS, PASSING THE SAVINGS ON TO LOAN RECIPIENTS IN

THE FORM OF LOWER RATES. PRESENT RESTRICTIONS AFFECTING THE PURCHASE AND SALE OF TAX-EXEMPTS AND THE USE OF THEIR PROCEEDS ALL SERVE TO BOOST THE CAPITAL COSTS OF ENVIRONMENTAL INFRASTRUCTURE. WE HAVE ATTACHED FOR THE COMMITTEE'S CONSIDERATION CIFA'S STATEMENT TO THE HOUSE WAYS AND MEANS COMMITTEE ON WAYS THE FEDERAL TAX SYSTEM COULD BE USED TO IMPROVE THE ENVIRONMENT.

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STATEMENT OF

ROBERT JOHNSON

EXECUTIVE DIRECTOR

NORTH DAKOTA LEAGUE OF CITIES

on behalf of

THE NATIONAL LEAGUE OF CITIES

on

S. 1296, S. 1331 and S. 2184

FINANCING FOR SMALL COMMUNITY ENVIRONMENTAL PROGRAMS

before the

ENVIRONMENT AND PUBLIC WORKS COMMITTEE

UNITED STATES SENATE

May 15, 1990

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Mr. Chairman, members of the Committee: I am Robert Johnson, Executive Director of the North Dakota League of Cities. I am here today to testify on behalf of the National League of Cities and the 16,000 cities and towns across the nation we represent as well as for the 366 cities and towns in North Dakota.

First, Mr. Chairman, I would like to commend Sens. Burdick, Baucus and Bentsen for their proposed legislation. Each of the measures recognizes that a financing problem exists for the nation's smaller cities and towns in meeting costly federally imposed environmental mandates. As Sen. Burdick said in his letter inviting us to testify: "...small communities are most likely to experience 'rate shock' as a result of new environmental projects." We would agree, that without an adequate commitment of assistance -- both financial and technical -- from both the federal and state levels, the nation's small cities and towns will never be in a position to comply with the nation's environmental goals and objectives.

We see these proposals as a promising beginning -- a recognition that without a strong, viable partnership among all three levels of government, a sizable portion of Americans will only enjoy safe drinking water (S. 1296), adequately treated wastewater (S. 1331), and environmentally sound solid waste disposal options (S. 2184) at untenable and perhaps unmanageable per capita expense.

Loan Programs

However, we can only regard these proposals as promising, because we have serious reservations about the utility and effectiveness of loan programs for the target communities.

Since the basic obstacle to compliance with federal environmental mandates for these communities is quite simply a lack of adequate financial resources -- be it their lack of a substantial tax base, state-imposed limits on local government taxing authority, inadequate population densities, their inability to benefit from economies of scale, or their access to alternative sources of revenue to fund environmental mandates -- repayable loans do not resolve the affordability question for small communities. Having to repay a loan for 100 percent or more of the cost of a facility is no more feasible than having to pay 100 percent of the cost of the facility any other way.

Providing for a repayment period of 40 years, as proposed in S. 1331, or 30 years as in S. 2184 may ease the burden somewhat, but if major repairs or rehab -- to say nothing of requiring compliance with new environmental standards or implementation of new technologies -- are needed in the interim, as is likely to be the case, it will merely exacerbate the inability of small communities to repay the loan or to finance the needed upkeep of the facility. While we believe the intent of proposing long term loans is to ease the fiscal burden of repayment, we believe there is cause for concern if their is a significant disparity between the useful life of a given facility and the term of the loan.

Another factor that needs to be addressed is that federally funded loans come with added constraints which increase costs -- Davis-Bacon prevailing wage requirements, additional paperwork, more complex and costly auditing and accounting procedures.

In addition, as we've noted to this committee in earlier testimony, our support for the state revolving loan concept has been severely tempered by our experience with EPA's Guidance for the SRF established in the 1987 amendments to the Clean Water Act. Unless we see airtight legislative language prohibiting the states from using local government interest payments on federally-financed SRF loans to meet state matching requirements, we cannot -- and will not -- support another state revolving fund.

Our recommendation would be to require a state match, such as the 30% in S. 1296, mandate that, at a minimum, this match be used as a grant to small communities, and make the federal contribution available as either grants or as a low or no interest loans. This has the advantage of alleviating small communities from some of the costs by providing non-repayable funding as well as maintaining a permanent pool of funding to which small communities can have access to meet their environmental needs.

We would also suggest that the states should be made responsible for the paperwork, auditing and accounting requirements.

Many states have already moved forward with providing both financial and technical assistance to their smaller communities on environmental matters. We understand that some of the states have funding constraints too. In North Dakota, we have experienced depressed agriculture and energy prices and several years of drought. These circumstances make it difficult to raise new revenues. Last December in our referral elections, three tax measures were voted down. This past April a number of local elected officials who supported the proposed increase in taxes were voted out of office.

We would be willing to support, for example, statewide user fees as a means to raise revenues to meet the state matching requirements, funds which could then be made available to smaller cities and towns to assist them in meeting their environmental obligations. If small communities do not comply with federal environmental mandates because they cannot, the states will ultimately have no choice but to provide the means for their compliance. The bills pending before you outline a framework on which we can build a mechanism for sharing the burden among all levels of government for meeting the nation's environmental goals.

State Limitations on Local Borrowing Authority

We would also recommend the committee consider additional in kind or match requirements for those states which impose restrictions on the rights of municipalities to raise taxes or borrow. As of 1987, 31 states imposed property tax limitations; 22 mandated levy limits; and 7 others imposed other limits. This puts municipalities in the impossible situation of facing an expensive federal mandate on one side and a state mandate proscribing our ability to raise the money to comply on the other. In the final analysis, we're the ones penalized both environmentally and legally.

Target Communities

Of the proposals pending before you, only S. 1331 focuses on economic distress to the exclusion of population size. As an organization representing all cities, NLC would clearly prefer to support criteria that use need as the determination of eligibility for any federal funds that may be made available for compliance with environmental mandates.

A recent draft report prepared for the New Jersey Department of Environmental Protection indicates that:

> "Impacts on user charges will be heavier on residents of the smallest (population of fewer than 5,000) and largest (more than 50,000 residents) communities. The smallest communities will experience the highest dollar increase ($221 per year) in household user charges. This group of communities already pays the highest user charges; they will continue to do so in the future, but most of these communities are inhabited by relatively high-income households. The average 1989 household income of the communities in the sample was $48,744.
>
> "The average annual household income of these communities [i.e., in cities with populations of more than 50,000 people] in 1989 was only $23,705."

However, we also recognize that this committee's efforts -- efforts which we support -- are intended to address the legitimate and unique needs of small communities, many of which never had access to the construction grants program for wastewater treatment plants and most of which will have to impose untenable user fees on their citizens to comply with drinking water act requirements because they lack economies of scale.

In North Dakota, for instance, 180 cities -- more than half of those with populations under 2,500 -- have residents who earn less than the 75% of the national median income. Moreover, many of those who live in the smaller cities are on fixed incomes, are older than the national average and are underemployed. These factors certainly contribute to the decisions of our state's voters to reject increases in taxes.

Similarly, according to the Illinois Municipal League, in a state with 1,279 municipalities -- 871 of which have populations of 2,500 or less --

> "By and large, small communities in Illinois are farming oriented, have a large proportion of elderly fixed income residents with very little commercial or industrial tax base."

We would suggest, therefore, that a program targeted to cities or a specified size be coupled with the "distress" factors, such as median income and unemployment, as incorporated in S. 1331. I would also suggest "underemployment" also be a factor in allocating any new federal assistance.

We would also like to see any new program incorporate a "sub-state" allocation formula. By setting out objective criteria, you can ensure that communities without any, or with inadequate means for self-help receive priority consideration.

Facilitating Compliance

In testimony before this and the Government Affairs Committees last year, we recommended that if the nation's municipalities are to meet national environmental goals and objectives, it is essential for the federal government to implement steps which:

- **Prioritize Environmental Mandates**

Congress must recognize and accept the fact that the nation's cities -- large and small -- can no more afford to implement every good and worthy idea at the local level than can be done at the federal level. If the federal government is not willing to prioritize, we will do it at the local level, painfully and haphazardly, and probably in a hodge-podge pattern that is inconsistent and counterproductive from one city to the next.

So long as federal mandates were accompanied by the resources -- or at least partial resources -- to comply with them, there was an incentive to accept the federal priorities at the local level.

These incentives have long since vanished, but the mandates seem to increase in number, complexity and costliness. Most federal mandates have merit, but the federal government cannot absolve itself of responsibility to participate in accomplishing federally-established objectives at the expense of essential local services and priorities. No local elected official can tell the citizens of his or her community that there will no longer be a police force or fire department because those resources will now be spent on measuring for contaminants in the drinking water supply. Those are not acceptable trade-offs at the local level.

While we recognize the desire to clean up and fix everything at once, you can't afford it -- and neither can we.

- **Analyze and Recognize the True Cost of Mandates**

As you know, EPA recently undertook an initiative -- one which we wholeheartedly support -- to determine the impact on and the ability of small communities to manage federal environmental mandates. EPA has also included credible cost estimates in a number of their regulatory proposals and made attempts to include cost breakouts by city size. For example, the recent drinking water standard for lead anticipates annual per household cost increases of $340 to finance implementation of the lead rule in the nation's small cities and towns. And it must be remembered, this cost is for only one of 83 contaminants cities and towns will be required to address.

The state of New Jersey has similarly commissioned a study for all of its municipalities. These are significant and important initiatives that we expect to see continued and perfected. Clearly we can develop better national policies if we understand what is possible, what is difficult and what is beyond our ability to do.

We believe the federal government can develop more effective and realistic national policies if the process begins with adequate and appropriate information on actual costs, cost/benefit analyses, and sources of revenue available to fund new or existing initiatives.

CBO cost analyses that simply state "not available" are no longer acceptable in an era of fiscal constraints.

- **Deal with Ability to Finance Mandates**

The federal government must also assess the fiscal capacity of other units of government to fill the void created by reductions in or elimination of federal financial participation in meeting federal objectives.

Small cities in North Dakota -- as well as in other states -- cannot raise revenues or impose user fees beyond the ability of their residents to afford these increased costs.

The not yet promulgated EPA requirements for sanitary landfills will place another set of mandates on cities. Because North Dakotans only generate about 1300 tons of solid waste a day over the 70,000 square miles in which they live, overly stringent rules will create a real problem. The state has closed over 100 open dumps, has accepted for closure another 45 permitted landfills in recent years and needs to assist communities in closing 58 landfills in the near future. The cost for closure is about $5 a yard, which for many cities poses an economic hardship. The North Dakota League of Cities, in cooperation with the State Health Department has been instrumental in proposing regional landfills, recycling and composting. Without financial assistance thought this become difficult.

Without some federal role in providing for a level playing field, we believe there will be an increasingly unequal America. Federal access to revenue sources is far more equitable and federal ability to collect taxes is far more efficient than ours. We believe the federal government is at a critical juncture where it must decide to raise the revenues to fund its mandates or forget about having them.

- **Honor Commitments**

NLC has raised this issue with you before, but let me repeat it from the perspective of North Dakotans. North Dakota could be in much closer compliance with EPA's safe drinking water requirements and therefore less dependent upon the proposed federal assistance had the Garrison Diversion Project continued to be funded as proposed. A promise was made to the state that if it flooded 550,000 acres of rich bottomland to lessen flooding conditions and improve navigation for downstream states, it would receive enough funding to redistribute Missouri River water, which accounts for 96% of all our surface water in the state, for general use, irrigation and recreation. Later $200 million was to be made available for the planning and construction of water supply facilities for municipal, rural and industrial (MR&I) uses. It was projected that at least 113 communities would be assisted in their water needs. However, that promise goes unfulfilled, which doesn't make water available for MR&I purposes nor for economic development. The point is this: if promises made in the past are not met, will financial assistance be made available to meet federally-imposed mandates. We need clear discernible goals that are in the best interests of all parties affected by the goals.

Mr. Chairman, I appreciate the opportunity to appear before you here today and would be pleased to answer any questions you may have.

ILLINOIS MUNICIPAL LEAGUE
Member National League of Cities

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May 10, 1990

To: Carol Kocheisen
National League of Cities

From: Kenneth Alderson
Assistant Executive Director
Illinois Municipal League

Illinois has 1279 municipalities, with the following breakdown by population:

623 are under 1,000 population,
373 are between 1,000 and 5,000 population,
97 are between 5,000 and 10,000 population,
115 are between 10,000 and 25,000 population and
71 are greater than 25,000 population.

What is your view of the extent and nature of environmental facility needs (i.e. drinking water, wastewater, solid waste) in small communities?

The latest infrastructure needs available to the IML is from a 1983 survey by the Illinois Municipal Problems Commission (now defunct) and is included herewith.

We would presume that this ratio still holds because no large influx of additional monies have been available to municipalities to address sewer collection and water distribution systems. Additionally, sophisticated equipment for underground infiltration/inflow and or leak detection on sewer/water systems are generally priced outside the financial ability of small communities. Therefore, most smaller communities operate on a "fix when broken" schedule.

What constraints do small communities face in financing facilities to address these needs (e.g. lack of economies of scale, limited access to financing, limited management resources)?

Those listed in your question are the constraints, except in very rare circumstances where a small community has a large revenue producing base, such as a regional shopping center generating sales tax or a manufacturer that provides a large property tax base.

By and large, small communities in Illinois are farming oriented, have a large proportion of elderly fixed income residents with very little commercial or industrial tax base. Additionally the sewer system, if not private septic systems, may be one that only serves a part of the municipality, is in disrepair because of lack of finances and may not have been eligible for (then) Sewage Treatment Grant funds because their priority was not high enough. The low priority for eligibility would still be applicable under present revolving loan standards.

Water system needs suffer from the same constraints, except as additional limitations are place on finished water quality, additional burdens (financial) are placed on smaller communities. Shallow wells, quite often used because of installation cost considerations, are those that are more subject to low (or high) contamination levels from pesticide/herbicide/fertilizer, etc..

In Illinois we needed to set up a shared cost for water testing between the state and community water supplies because smaller communities could not afford exotic toxic testing requirements.

Are the environmental needs of small communities, and the constraints they face in financing environmental facilities, sufficiently greater or different from the needs and constraints of larger communities to justify special attention to small communities?

Yes! Federal and state laws regarding the environment make no difference in their applicability as to whether a community is large or small - nor should they, if health is the consideration. However, on an economy of scale basis, costs to the small community on a per capita basis are higher than to the large community. This applies not only to capital costs but to personnel costs, engineering, testing and so on.

Illinois requires wastewater and public drinking water operators to be certified. This often relates to small communities being a training ground, albeit at a somewhat lower salary than a large community. However, the small community bears the cost of providing the schooling and training for an operator to move up to a larger community, over and over again.

Should small communities which are also disadvantaged (i.e. low median household incomes) be given special assistance in the form of grants or other financing?

Yes! However, the usefulness of the assistance, financial or otherwise, will be dependent upon the strings attached. Many smaller communities represent a "way of life" and would be resistant to outsiders determining solutions to problems within the community. It might be that an income tax deduction, based upon qualified municipal expenditures or revenues (i.e. property tax) could provide local resources while not establishing a bureaucratic grant/loan program system.

Additionally, many regulatory agencies are either not equipped or are loathe to provide any sort of assistance. A small community receives a notice of violation and since they have no professional staff, are usually faced with two options: ignore the notice, which usually leads to more problems and costs, or attempt to address the notice which usually requires the hiring of professional assistance to interpret the notice. It might be that many small communities could benefit from assistance from the regulatory agency if only to help define what their problems are and how they might best arrive at a solution. In many instance a change in operating procedures might be all that's necessary, not the hiring of a consultant who then recommends a change in operating procedure.

What role should the States play in managing financing assistance for small communities?

The States should play the primary role, with assistance, advice and if possible, some semblance of control by local government. The grandiose plans that the federal government comes up with, and the semi-grandiose plans that the state(s) comes up with usually are the result of plans done by someone who has never been at the local level. Locals should be involved in defining what assistance is needed and its form, states should have the ability to address needs in their state and the federal government should base success on results with as little interference as possible.

Some of the greatest success stories of solving problems are where those with the problems define what is needed, allocate limited resources and, because the players have participated in the definition and allocation, offtimes limiting their own interests, they demand accountability and success.

May 11, 1990

To: Carol Kocheisen, NLC

From: Ann Higgins, LMC

Re: LMC comments on Small Community Environmental Assistance Act

You have asked for our reactions to S. 2184, a bill to assist small communities in construction of facilities for the protection of the environment and human health.

Minnesota has 854 cities, with the following populations:

752 are under 5,000 population;
536 are under 2,500 population, and;
217 cities are under 250 population.

Specifically you asked for our responses to the following questions:

What is your view of the extent and nature of environmental facility needs in small communities ?

In Minnesota, at least 70 communities under 2,500 population have been identified as having wastewater treatment needs. This number is probably low in that it is derived by reviewing those cities that have chosen to get on the state needs list for financial assistance. Other small communities, which see little prospect for state or federal assistance, have not submitted the data necessary even to be considered as having needs. These communities are primarily located in economically distressed rural areas of the state.

What constraints do small communities face in financing facilities to address these needs (e.g. lack of economies of scale, limited access to financing, limited management resources)?

With few exceptions, the large number of small cities in Minnesota lack local tax base, alternative revenue sources, or eligibility for previous grant assistance to improve local wastewater or water supply facilities. Residents may face the threat of leaking septic systems or contamination of area groundwater. A break-down of the the relative size of populations served by the 700 municipally operated drinking water systems in Minnesota demonstrates part of the problem:

* 20 percent serve populations of less than 100;
* 75 percent serve populatins of less than 2,500;
* 90 percent serve populations of less than 5,000.

Those percentages, in turn, reveal a stark reality: with 536 cities under 2,500 in Minnesota, fully 98 percent, or 525 of such cities are listed in this category. Again, for the 90 percent of water supply systems that serve cities with populations of less than 5,000, there are a total of 670 cities in which such systems currently operate, bringing that total to 96 percent of all the municipally operated systems in the state.

Those numbers translate into the nearly universal need for rehabilitation of of aging systems; installation of treatment and operations to improve water quality; development of new water supplies and continuous maintenance.

More than half the cities in Minnesota under 2,500 that have been identified by the Minnesota Pollution Control Agency for wastewater treatment needs have median incomes of less than 75 percent of the national median household income.

The cost of installation or rehabilitation of major environmental systems is prohibitive at the local level, with only a few rare exceptions. The Minnesota Pollution Control Agency (MPCA), in testimony prepared for the hearing on S. 2184, the Small Community Environmental Assistance Act, noted that:

> "...it has been very difficult for small communities to maintain their infrastructures... (but) it is apparent that low interest loans by themselves cannot provide enough financial assistance to enable many of our small communities to proceed... . Until they can find some form of grant assistance, many of these communities must simply put their...projects on hold."

As MPCA Director Gerald Willet explained in his testimony, there is serious concern at the state level about the resulting threat to local water supplies as well as to statewide water resources.

Considerable concern over the increased cost of compliance with federal drinking water standards and the lack of full-time management of local water system operations underscores the current part-time supervision and staffing available in many smaller cities.

Are the environmental needs of small communities and the constraints they face in financing environmental facilities sufficiently greater or different from the needs and constraints of larger communities to justify special attention to small communities?

There is little doubt that costs to small cities on a per capita basis are higher. Exposure to the threat of area groundwater contamination is often more far-reaaching in the impact on the city residents and businesses. Costs in terms of personnel, testing, maintenance are also a serious financial strain on city budgets. Information listed above provides some indication of the extent of the problem:

* 54 percent of cities under 2,500 population identified by the MPCA priorities list have median household incomes of less than 75 percent of the national median;

* 33 percent of municipal water supply systems reported operating losses in 1988;

* the mean age of public wataer supply system that draw drinking water from groundwater is 24 years;

* the average age of water filtration facilities is 43 years;

* there is an increasing demand for new water systems in the face of rising incidence of detection of contamination of drinking water supplies, particularly in agricultural areas.

MPCA has testified that the need for wastewater treatment grant assistance alone outweighs current state and local resources to achieve needed improvements and rehabilitation of aging systems.

Should small communities which are also disadvantaged (i.e., low median household incomes) be given special assistance in the form of grants or other financing?

There is a paramount need to enable many of these cities to combine grant assistance and SRF loans to provide sufficient financing to undertake such large capital projects, but even more important are the continuing elements of such an approach to aiding these cities in the continued operation and maintenance of current or improved systems. It is critical to allow states and local government to work in partnership to design a program that meets specific local needs and circumstances. This also holds true for the extension of technical assistance to such communities to assure that they will be able to continue compliance and improved management to assure that their environmental systems will continue to protect the residents and the resources on which they depend for drinking water and waste disposal.

What role should the States play in managing financing assistance for small communities?

States should be authorized to design programs with the assistance and participation of local government officials to direct grant assistance and SRF resources to the problems that are identified as priorities for remedial action, reconstruction, technical support, installation of new equipment to aid compliance with environmental standards, etc. S. 2184 proposes a comprehensive approach that aims to target funds to cities in the most need and allows local government and state regulatory agencies to identify environmental and public health priorities. This approach appears to provide the much needed financial assistance necessary to samll cities so they can address a variety of problems with water, sewer treatment or solid waste disposal. The flexibility that the program allows at the state level for program design and management will be vital to its success in the small cities that are to be the recipients of federal grants and loans.

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TESTIMONY OF

WILLIAM E. LEONARD

FIELD REPRESENTATIVE

OF

MIDWEST ASSISTANCE PROGRAM
AN RCAP ORGANIZATION

Before the

SENATE COMMITTEE ON

ENVIRONMENT AND PUBLIC WORKS

on

MAY 15, 1990

Recycled Paper

A4 to A4

Mr. Chairman, my name is William B. Leonard and I am a Field Representative of Midwest Assistance Program in the state of Montana. I am a native born Montanan, having grown up in a small community and now participating closely in the management of the water and sewer district in which I live. Midwest Assistance Program provides technical assistance to hundreds of small communities in nine states throughout the midwest. I particularly appreciate the opportunity to relate to you my perception of the environmental facility situation witnessed by the many small communities I work with in my state, and those shared with me by my colleagues providing technical assistance in other states.

Needs

The environmental needs of small rural communities, not unlike those of larger cities, are a reflection of and dictated by advancing social standards, elevated to law by the Congress of the U.S., and regulated by the EPA and state agencies. The debate regarding environmental needs has not only been held in many forums, but is essentially resolved. The basic premise that Americans should be guaranteed pure, harmless drinking water in every community of the country has been established. We've wanted to believe that premise for generations; now we are, by law, regulation and enforcement, assuring that belief is factual. (Water is used to make the point because, in my opinion, the other aspects of environmental needs, law, and regulation are derivatives of the water quality issue. Water quality directly reflects the state of our environment.)

Financial Dilemma

The small community deserves to have environmental needs satisfied. The problem, still largely unresolved, is how the small community can reasonably finance the tremendous expense of new or updated water systems, sewer systems, and waste management systems. A small central sewer system, for example, typically costs well over a million dollars. (I'm working with a small Montana community, Lakeside, less than 400 users, that is trying to pay for a sewer system that cost over six million dollars.) For a small community, that's a huge indebtedness; and chances are these same communities are faced with equally expensive mandated water system improvements and vastly increased garbage rates! The citizenry, by and large, simply cannot afford to pick up the tab. The needs, the regulations and the problems, however, are very real. The timing, in retrospect, of these environmental regulations and the overwhelming financial burden they impose is not good from the small community's aspect; it's too much all at once. Small communities are literally dumfounded as to how they can possibly finance these mandated basic infrastructure improvements.

Economic Realities

Typically, the small community's city council (if it is incorporated), town committee (if unincorporated), or water and sewer district board is operating on a very meager, break-even budget with no reserves. Of course that kind of fiscal management can be criticized; state and federal agencies are trying to encourage change, universities are promoting more responsible local government. The cold hard fact remains; nearly all small communities have had an ultra-conservative, Widow Smith philosophical approach to fiscal decisions: If the most destitute community member can't afford the suggested change, the community can't afford the change. As a result, infrastructure systems are often run down and poorly maintained, if they exist at all, and the community is broke. For large communities, an increase of a few dollars in annual user fees, or a fraction of a mill increase in property taxes, will raise millions. A fee increase of a few dollars a month, ten dollars, twenty dollars, fifty dollars a month would not begin to off-set the capital improvements most small communities are faced with today. The population and property values simply are not there to underwrite expensive environmental facilities.

Small communities are not economically diversified. If agriculture is not prospering, as has been the case throughout much of the country, a little agriculture based town is in no position to entertain indebtedness for environmental facilities. In the northwest of Montana, for example, the small community largely dependent on forest products is losing jobs almost daily. They are in no mood to discuss even the best of terms on an infrastructure facility loan. Again and again, the economies of scale, the sparse population, and the lack of diversification haunt the leadership of small rural communities.

An unfortunate trend of yesteryear needs to be recognized to fully appreciate the position many small communities find themselves in today: Just as small, rural communities tended to be very conservative on fiscal matters, so was their attitude toward government financial assistance via various infrastructure improvement programs. _If_ small community leaders knew of the existence of a particular program, (that knowledge often did not reach rural communities) they were inclined not to inquire further because such programs were viewed as 'government handouts'. We must appreciate that the demographics of small rural communities generally bear out a proud and highly independent populace. In years past, they didn't perceive a problem and didn't want financial assistance, _if_ they knew it was available. Untold millions of federal dollars, primarily targeted for small communities, ended up in larger cities with their planning staffs and ambitious capital improvement programs. It is my opinion that this trend of the past is at least partially responsible for the substantially more modern water and wastewater systems found in larger communities, and the absence of same in small communities. Most certainly, technical assistance was missing or inadequate for those small communities. It is also my opinion that, with the recent deluge of federal environmental regulations, small communities have reversed earlier attitudes and fully realize they must seek financial assistance in order to comply; indeed, in order to survive.

Type Assistance and Delivery

The bottom line is that Small Town America must receive substantial financial help if they are to meet environmental facility needs. The method by which that financial assistance is disbursed is critical to its usefulness and overall success of the program. One of the more successful programs, in my opinion, was EPA's Construction Grant Program through the primacy states. That program, which terminates this year, was truly a pillar of encouragement for thousands of wastewater projects across the country. Under that program, a substantial percentage of a sewer project was guaranteed to be paid by EPA funds as an outright grant. The remainder of the cost, or 'local share,' was left to the community to arrange other financing. The community's average income was not a factor of eligibility for the EPA Construction Grant Program; this eliminated the cumbersome burden of establishing income levels. Unfortunately, that grant program is terminating just as many small rural communities are becoming aware of, or are forced to admit, that they have a wastewater problem. There has never been a similar program to assist with drinking water projects.

The replacement (it can't be termed a sequel) for the highly successful Construction Grant Program is the EPA's program to advance monies to those states which agree to provide 20% matching funds, and then use the combined monies to support State Revolving Loan Funds. A major hitch has developed which significantly reduces the usefulness of this program: Most state legislatures resorted to approving bond issues to raise the state's matching share. Therefore, interest must be charged on the community loans in order to pay holders of the state bonds. A fact that is 'emerging' across America is that many small communities can't afford to take out a loan to totally finance an environmental facility project - even if it were a no interest loan! Lesson learned: Grant monies must be available for environmental facility projects to provide affordability for small communities.

The Farmers Home Administration's Community Water and Waste Disposal Program is another popular and useful form of infrastructure financial assistance. It is, in my opinion, a program which has vastly improved with age, particularly from an administration standpoint. The 'pencil backward' approach to funding a project is very workable at the community level: Within two basic community income eligibility levels, a project is funded with sufficient grant money to allow the remaining 'local share' to be covered by an affordable loan. Affordability is determined by existing community debt service and user rates from comparable communities within the state. The FmHA program is well received by small rural communities, presumably because it is accepted as equitable by the citizenry. It is also grossly oversubscribed, and can't begin to meet the increasing demand from small communities. However, one must recognize the cadre of rural communities that have difficulty with even the low interest FmHA loan on a single project, not to mention multiple facility projects!

State Involvement

States must share some of the burden of improving environmental facility conditions in their small communities. It is my perception they, like the federal government, are not doing enough in this regard. Certainly, some states are doing more than others. Most states have some program, or programs, providing grant and/or loan monies for communities fortunate enough to rank highly in competitive selection processes. Over-taxed in the past, these meager state programs will be vastly over-solicited due to the new environmental pressures; if not substantially increased in dollar volume, they will become increasingly ineffective. The EPA program requiring state matching funds has demonstrated that requiring matching funds is not the way to go for loan programs. However, state matching funds to support a grant program, preferably administered by the state, may be workable and useful to the small rural community.

Technical Assistance

Technical Assistance is essential to small communities which normally operate on a volunteer Mayor and Council, Town Committee, or District Board basis. Often, in the case of unincorporated communities, they need guidance in establishing a legal entity before progressing with a project. Lack of understanding and improper application has been a prominent factor in small communities failing to fully utilize financial assistance programs in the past. Technical assistance sometimes begins with planting the seeds of knowledge; the TA process often is lengthy and complex in small communities, but bears bountifully in the long run. Without technical assistance from some sector, the chance of a small rural community to organize, plan, finance and complete an infrastructure project is slim. Neihart, MT, for example, has 32 permanent users, 90 seasonal users, and has struggled with an inadequate water system for twelve years. The community has been the recipient of a CDBG grant and a FmHA grant/loan package, but has used neither. Internal strife and citizen polarization have twice prevented project progression. At the bequest of FmHA, MAP began working with the community in 1988, an engineer was hired in 1989 and the community is well on its way to solving this long standing problem. Similar cases of communities being in a state of strife for years, primarily due to not knowing where to turn or understanding the value of local communications, are countless.

RECOMMENDATIONS

- Grant programs should predominate any legislation intended to give financial assistance to small rural communities. Large loans, at low interest or even zero interest, are often totally unaffordable for small communities. The magnitude and costs of facilities needed eliminate other financing options.

- Technical Assistance rendered by professionals working in the field on a daily basis is invaluable to the success of small communities seeking to solve their environmental facility needs.

- Procedures must be developed to attract additional state commitment toward the solution of the small community financial crisis.

- Federal funding funneled through appropriate state agencies would be most likely to attract new or increased state commitment.

- Federal legislation written to encourage state participation should emphasize the need for substantially grant oriented programs.

- The issue of average community income should not be emphasized as an eligibility parameter. Income is a very complex issue to work with at the small community level, and sometimes leads to frustration, polarization, and defeat of infrastructure projects.

Statement of
The National Association of Towns and Townships
Presented to the
Senate Committee on Environment and Public Works
May 15, 1990

Mr. Chairman and distinguished members of this Committee, my name is Sharon Lawrence. I am Director of Federal Affairs for the National Association of Towns and Townships (NATaT), a national organization representing more than 13,000 general purpose local governments across the United States.

I would like to focus my remarks today on the problems small communities face in building and maintaining the infrastructure necessary to ensure their citizens a safe and healthful environment. I will also discuss how S. 2184 and other measures being considered by this Committee may help small local governments provide essential environmental services to their residents at an affordable rate.

What is a Small Government?

First, however, I would like to discuss briefly the definition of a small government and some of its characteristics.

The 13,000 mostly small, mostly rural, communities represented by my association are typical of the majority of the nation's 39,000 general purpose local governments. As the table below shows, 86 percent of the nation's local governments serve populations of less than 10,000 people, and 67 percent govern less than 2,500 residents.

GENERAL PURPOSE LOCAL GOVERNMENTS*

Population	Number of Governments	Percent of Total	Cumulative	
			Number	Percent
Less than 2,500	26,139	67%	26,139	67%
2,500 - 4,999	4,099	11%	30,238	78%
5,000 - 9,999	2,973	8%	33,211	86%
10,000 - 24,999	2,952	8%	36,163	93%
25,000 - 49,999	1,410	4%	37,573	97%
50,000 - 99,999	779	2%	38,352	99%
More than 100,000	581	1%	38,933	100%

*Includes Township, Municipal, and County Governments

The typical small local government, the object of today's hearing, has less than one million dollars available annually to pay for all governmental services (see chart below). The Village of Combined Locks, Wisconsin, typifies small governments. Its 2,429 residents generated $1,081,400 of revenues in fiscal year 1988, an amount equal to $445 per capita. Of that amount, $385,300 came from taxes, $506,000 from intergovernmental transfers, and $63,400 from service charges.

AVERAGE ANNUAL REVENUES OF
GENERAL PURPOSE LOCAL GOVERNMENTS

Population	Average Revenues	Number of Governments
Less than 250	$49,557	7,032
250 - 499	$119,207	5,269
500 - 999	$219,490	6,252
1,000 - 1,999	$477,844	5,975
2,000 - 2,999	$971,223	2,873
3,000 - 3,999	$1,535,796	1,673
4,000 - 4,999	$2,402,382	1,187

As the above data shows, we are truly a nation of small communities; small communities facing major challenges in meeting community needs and federal and state mandates for environmental protection.

The State of Infrastructure in Small Communities

Without a sound physical infrastructure, a government cannot provide the services necessary to maintain a community's public health, safety, and welfare. Without a sound infrastructure, a community cannot support and sustain economic growth, as there is a strong relationship between well-constructed and operated public works and a community's ability to attract and retain both commercial and residential development. With an effective and efficient infrastructure, governments can reduce the cost of wastewater treatment, water supply, and solid waste disposal, and have their communities become attractive business locations.

Of the 39,000 general purpose local governments in the United States, more than 14,000 furnish drinking water to their residents, over 13,000 provide wastewater treatment, and in excess of 8,000 own or operate landfills, according to statistics compiled by the U.S. Bureau of the Census. Communities under 2,500 own or operate over 8,600 of the drinking water facilities, more than 7,100 of the wastewater treatment plants, and in excess of 4,100 of the landfills (see chart below).

NUMBER OF ENVIRONMENTAL INFRASTRUCTURE FACILITIES OWNED BY GENERAL PURPOSE LOCAL GOVERNMENTS*

Population	Number of Govts.	Drinking Water	Landfills	Wastewater Treatment
Less than 2,500	26,139	8,647	4,109	7,128
2,500 - 4,999	4,099	1,887	892	1,946
5,000 - 9,999	2,973	1,407	970	1,494
10,000 - 24,999	2,952	1,303	1,103	1,422
25,000 - 49,999	1,410	565	562	598
50,000 - 99,999	779	300	352	337
More than 100,000	581	258	307	299
Total	38,933	14,367	8,295	13,224

*Includes Township, Municipal, and County Governments

Despite their small size, communities under 2,500 population are not shirking the responsibility of providing environmental infrastructure. On a percentage basis as well as by absolute numbers, a substantial number of small communities own and operate or own and contract infrastructure as the chart below demonstrates.

PERCENTAGE OF GENERAL PURPOSE LOCAL GOVERNMENTS* OWNING ENVIRONMENTAL INFRASTRUCTURE FACILITIES

Population	Drinking Water	Landfills	Wastewater Treatment
Less than 2,500	33%	16%	27%
2,500 - 4,999	46%	22%	47%
5,000 - 9,999	47%	33%	50%
10,000 - 24,999	44%	37%	48%
25,000 - 49,999	40%	40%	42%
50,000 - 99,999	39%	45%	43%
More than 100,000	44%	53%	51%
Total	37%	21%	34%

*Includes Township, Municipal, and County Governments

MUNICIPAL & TOWNSHIP GOVERNMENTS OWNING ENVIRONMENTAL INFRASTRUCTURE FACILITIES

	Total Govts.	Less than 2,500 Pop.	Landfills	Wastewater Treatment	Drinking Water
United States	35,891	26,038	3,997	11,829	12,940
Connecticut	180	29	97	89	35
Florida	390	164	18	194	241
Idaho	198	152	3	145	121
Louisiana	301	196	18	189	205
Maine	493	378	217	92	47
Minnesota	2,653	2,439	32	554	618
Montana	128	95	44	113	111
Nevada	18	7	8	17	12
New Hampshire	234	138	109	77	69
New Jersey	567	112	45	237	201
New York	1,547	780	250	452	626
North Dakota	1,721	1,699	124	254	219
Rhode Island	39	1	12	19	17
Virginia	229	152	31	136	164
Vermont	292	230	59	79	78
Wyoming	95	70	38	83	80

Source: 1987 Census of Governments

In discussing the infrastructure needs of small communities, we must divide the issue into two parts. First, we must discuss the rehabilitation and replacement of existing facilities. Second, we must address the problems facing communities which have not yet constructed drinking water, wastewater, or solid waste disposal facilities--but are in desperate need of such facilities.

Local governments are now facing a major challenge--how to pay for rehabilitation and replacement. Facilities brought into service during the 1950s through the 1970s are or soon will be reaching the end of their useful lives. They must be replaced.

The problem is particularly acute in small communities. Statistics developed by the U.S. Environmental Protection Agency (EPA) indicate that over 80 percent (i.e, 9,600) of the communities in violation of sewage treatment requirements are small communities. According to the EPA's Municipal Wastewater Needs Survey, total small community sewage treatment needs exceed $8 billion. In addition, small drinking water systems account for over 90 percent of the violations to federal drinking water regulations.

No comprehensive data exists on the solid waste disposal needs of small communities. The Environmental Protection Agency, however, estimates that over half of the existing solid waste disposal facilities in this country will close this year because of more stringent federal and state standards. Where sufficient capacity will be found in small communities and how much it will cost is simply unknown.

Although we have some idea of the infrastructure replacement and rehabilitation needs of small communities, we have little or no data on the second portion of the infrastructure problem: the needs of communities not yet serviced by wastewater, drinking water, or solid waste facilities. No one has, to the best of our knowledge, taken a comprehensive look at those communities, for example, on individual septic systems which should be replaced by a community wastewater treatment facility. No one has looked at the magnitude of the need and the cost to develop community drinking water supplies for those communities facing groundwater contamination.

Data gaps such as these hamper our ability to address these problems and to protect the public health and safety. Certainly data collection initiatives in these areas would be highly beneficial.

Why Small Local Governments Encounter Difficulty Meeting Infrastructure Needs

The costs of upgrading or replacing facilities, or constructing new ones, and complying with the new federal and state regulations will require a major increase in expenditures. For small local governments, the task will be a daunting one, as the cost of capital facilities can represent a significant portion of a small local government's budget and the taxpayers' bills.

Small governments, as we've demonstrated, have limited financial resources. Local governments, however, are constrained in seeking additional revenues by a number of factors including changing attitudes toward local taxes and state statutes.

Many state governments have legislated tax and expenditure restrictions for local governments. These restrictions may prevent local governments from exceeding either an established tax rate or total levies for a given fiscal year. Other limits are set on assessment increases resulting from rising property values. Limits may also be placed on the type of taxes which may be levied or the total debt incurred by local government. For a bond referendum, voter approval may be required by a 67% to 80% approval rate.

Small local governments planning to issue general obligation bonds meet other difficulties. Their ability to issue debt is determined by the ratios of debt service to municipal revenues and debt service to market value of taxable property. If both ratios exceed a given threshold, the small local government is considered unable to issue general obligation bonds. It is estimated that between 20 to 30 percent of local governments with populations under 2,500 fail this test and may not be able to obtain money from the capital markets for this reason. With other small communities, the amount of money needed may simply be too small for a bond issue.

Compounding the financing problems facing small communities has been the decline of federal aid for infrastructure over the past decade. A recent report issued by the General Accounting Office (GAO) highlights the significant shift of fiscal support which occurred during this decade.

Federal-State-Local Relations: Trends of the Past Decade and Emerging Issues shows that, during the 1980s, both federal budgetary support and tax subsidies declined. Local governments, however, were hardest hit by the reductions. For the period 1978-1986, total aid to states and local governments fell at an annual rate of 1.6 percent in constant dollars, GAO reported. Overall aid to states rose 1.3 percent while aid to local governments dropped 5.5 percent. That result occurred, according to GAO, because Congress "placed substantial importance on those safety net programs in health and welfare that help the poor," and less importance "on those nonsafety net programs in infrastructure and economic development, which generally are federal-local in nature."

Not only has the pool of money available to local governments declined, but the distribution of the existing funds hurt small local governments as well. Though millions of dollars have been set aside for sewage treatment grants, for example, only 8 percent of these funds have been devoted to small communities.

At the same time federal aid was declining, Congress enacted new restrictions upon tax exempt debt which have damaged all governments, regardless of size. For purposes of brevity, I will not recount those changes here, but will refer you to testimony presented March 5 to the House Ways and Means Committee by the Government Finance Officers Association on behalf of this association and many other local government groups.

Regulations Exacerbate the Problem

All of these factors limit a government's ability to fund public works projects. Unfortunately, these funding declines and financing difficulties come at a time of rampant cost increases, especially in the environmental protection area.

To meet new federal requirements, the environmental expenditures of small communities will increase from about 1.3% to more than 2.0% of the average gross household income, according to EPA. This can be translated into an increased outlay of over $170 per household per year. Water and wastewater user charges in the majority of communities serving populations less than 2,500 are expected to increase in an amount equal to or greater than a 50 percent increase in user charges. Residents in the largest cities, however, will experience an increase in their outlay of about 0.5% of the household income due to the economies of scale available with projects in larger communities.

Local governments may not be able to obtain outside financing because of the impact the various federal and state regulations will have on their user charges. In assessing the ability of a utility system to repay bonds, financing agents base their decisions upon the percentage of household income devoted to utility payments. Three different ratios, 1.0, 1.25 percent, and 2 percent, may be used. If the threshold level of 1 percent is selected, about one-fourth of the water and sewer systems serving populations of less than 2,500 may have difficulty issuing revenue bonds, according to EPA.

As troublesome as the higher standards are, equally frustrating is the inflexible approach used by federal regulators which forces unnecessary expenditures. Existing regulations, for example, do not provide incentives for innovative technology that may cost less. Environmental requirements, especially for small local governments, must take into consideration the feasibility and costs of the requirements as they affect the need to upgrade or develop new infrastructure.

Thomas Christensen, Supervisor of Ironwood Township in Michigan, recently wrote to us about the serious problems facing his community as it seeks to finance necessary infrastructure (see attached letter). With a population of 2,333 and a fiscal year

1990 budget of only $450,000, Mr. Christensen's township exemplifies the adverse conditions facing small governments that we have described.

Some States Step-in to Help Meet Infrastructure Needs

Some states have recognized the need for infrastructure funding and have enacted programs to help small communities finance projects. One example is the Pennsylvania Infrastructure Investment Authority (PENNVEST) program, which was established to help communities finance sewage and water system projects. Funded by nearly $1 billion in state and federal monies, PENNVEST is a revolving loan fund which will eventually supply $2.5 billion to update the state's clean-water infrastructure over 25 years.

Two-thirds of the initial funding comes from state sources, including monies raised from voter referendums and appropriated from the state's capital budget and general fund.

The authority offers 20-year loans at interest rates below those which are received on the open market. These lower interest loans are valuable to many communities that lack the financial backing to undertake a project on their own. PENNVEST also offer limited grants for the most financially distressed communities.

By April of 1990, the board of PENNVEST had approved 346 projects totalling nearly $516 million. Of those, 182 were drinking water and 164 were wastewater projects.

Another noteworthy program is the New York State Self-Help Support System, a joint project between the New York Department of Environmental Conservation and Health and the Rensselaerville Institute. The system provides assistance to alleviate the water and wastewater problems of small communities. Technical advice, "how to" materials, and a loan fund are among the types of assistance available to officials of small communities.

We should also mention the recent creation of the North Carolina Solid Waste Management Capital Projects Financing Agency. The agency is authorized to create one or more debt service reserve funds to collateralize state revenue bonds issued by the agency to create a loan pool for local government projects. Five million dollars was appropriated to establish debt service reserves, which will permit the agency to issue approximately $50 million in bonds.

Local government projects or activities which are eligible to apply for loans from the agency include the purchase of equipment or facilities; construction of incinerators; land for recycling facilities; recycling equipment; liners for landfills; monitoring of wells; volume reduction equipment; and financing charges.

Despite these laudable examples, most states lack the financial resources and administrative structure necessary to provide direct subsidies for locally used facilities. Booming state economies, if they ever existed, are now a memory. For the 1989 fiscal year, total state tax collections increased only 1.9 percent over the previous year. That figure is a substantial reduction from the 8.9 percent rise recorded by the Bureau of the Census for fiscal year 1988. Use of average figures, however, masks the true nature of the revenue decline, as 32 of 48 reporting states exhibited revenue growth below the 1.9 percent national average.

Slight revenue growth cannot be attributed to decreases in state tax rates. In fact, the contrary situation is occurring. During 1989, statistics prepared by the U.S. Advisory Commission on Intergovernmental Relations show 37 states taking tax actions designed to produce a net tax increase. In many instances, these were not small raises. The annualized impact of those changes exceeded one-half billion dollars in Massachusetts, New York, Georgia, and Connecticut, for example, and one billion dollars in Illinois.

S. 2184--A First Step

Small governments, as I have outlined, are facing a plethora of problems in meeting the infrastructure needs of their communities. With access to financial as well as technical assistance, however, small communities will be able to attain many of the environmental goals that federal policy has set for our nation. Without this type of aid, many of our nation's smaller communities are doomed to have second-rate environmental facilities, if any at all, and risk deterioration of their economic bases. Furthermore, our nation's environment may be placed at risk if the infrastructure needs of these small communities are not addressed.

The creation of a multi-purpose, state managed environmental infrastructure loan and grant program reserved for small local governments, as proposed by S. 2184, is strongly supported by NATaT. Special efforts should be made, however, to make any federal fund compatible with existing state programs, such as PENNVEST. A proliferation of separate funds merely confuses local government officials and wastes precious dollars in administrative expenses.

Given the tremendous infrastructure needs of this nation, it is essential that all funds be spent wisely. Toward that objective, this Committee must encourage, whenever possible, the identification and implementation of innovative, cost effective approaches to infrastructure finance, construction, and maintenance. Administrators must have flexibility to approve design standards or performance levels suited to the needs at hand, not generalized national conditions. Uniform national standards, imposed upon all communities regardless of their size, financial resources, or environmental conditions, simply may be impractical for implementation in our smallest communities.

Congress should also provide, as proposed in S. 2184, a combination of grants and loans to the poorest communities to assist them in financing necessary infrastructure projects. Safe drinking water, for example, shouldn't be a commodity dispensed according to the ability to pay.

Operation and maintenance of environmental infrastructure is also of critical importance. Without proper training of its operators, the best-built facility may fall into disrepair. NATaT, therefore, strongly supports the concept of environmental training centers for facility operators. Any infrastructure legislation approved by this Committee should address this key area.

Our organization also believes that information dissemination to local government officials is essential. We question, however, whether a new office should be created within the Environmental Protection Agency to accomplish this purpose. Many EPA divisions and virtually all states already have well established outreach programs. The addition of another office might simply confuse local government officials already accustomed to working with their state, university, or trade-association based contacts. Additional money to help fund these existing programs, however, would certainly be welcomed.

Finally, we urge members of this Committee to work with their colleagues of the Senate Finance and House Ways and Means Committees to examine recent changes in our tax laws which have adversely affected the ability of local and state governments to issue tax-exempt debt.

Action is Needed Now

Although reasonable minds may differ on the specifics of any legislative remedy, reasonable minds cannot differ on the need for action. Rocksprings, Texas, with a population of 1,350, is another example of a small community facing the challenge of environmental protection. Their story, cited in the Office of Technology Assessment's report discussed here today, demonstrates why aid is needed now.

The city has an annual budget of $221,000, one fulltime staff member in City Hall, and four other workers that staff the water supply system and landfill and perform the street maintenance and other tasks essential to the operation of the city. With their septic system now illegal under state law, residents are facing a $3.5 million expenditure for the construction of a wastewater treatment plant. The community's struggles unfortunately are far too common.

Local government officials are dedicated to protecting the health and safety of their residents. They recognize the need for clean water, safe drinking water, and groundwater protection. Under the present circumstances, however, the obstacles to meeting those goals are almost insurmountable. Small local governments need your help!

On behalf of the 13,000 members of the National Association of Towns and Townships, I want to express my appreciation to this Committee and to the sponsors of the bills under discussion here today for the leadership role you have taken in addressing the environmental infrastructure needs of small communities. The members of my association applaud your efforts in this regard. We stand ready to work with this Committee as you move forward on this crucial issue of concern to all the nation's small communities.

Charter Township of Ironwood
N10892 Lake Road
Ironwood, Michigan 49938
"Michigans Year Round Vacationland"
Gogebic County

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January 3, 1990

Mr. Arnie Edelman
National Association of Towns & Townships
1522 K Street NW
Suite 730
Washington, D.C. 20005

RECEIVED JAN - 5 1990

Dear Mr. Edelman:

My apolgies for not getting this to you sooner. The following information is for our local unit which Ann Cole thought could be useful in demonstrating the plight of local communities as they struggle to accomodate federal mandates.

Sewer Rates

Prior to 1984 and the new sewer correction project - -	$ 6.00 per month
Average Sewer costs in 1989 - -	37.87 per month
Our sewer correction project was federally and state funded with grants totaling 80%. Our 20% local share was financed by Fm. H.A. for 38 years. An addition was made to the project which was also funded on an 80/20 basis adding an additional $1.66 per month to the cost bringing it to - -	$39.53 per month

Solid Waste Costs

Prior to closing our landfill in November 1987, the township was spending an average of $3,000 per year - -	$ 3,000 per year
on operation. Since closure and mandatory pick-up our cost has been $84,000 per year. We are looking -	$ 84,000 per year
at an increase in the beginning of 1990 of $2.20 per resident, adding $31,680 to the $84,000 now for a totaL of $115,680 per year. -	$115,680 per year
In addition to having our garbage picked up we had to participate in the cost of building a transfer station. Our share (one-seventh) is $43,000 plus interest	$ 43,000
over ten years. To further compound our financial nightmare we have to close our landfill. Our local share of 10% ($76,800) is supplemented by our state's	$ 76,800
Quality of Life Bond Program (from our other pocket) for the remainder.	

Clean Water Mandates

Our present water sampling costs consist of free sample bottles from the State Health Dept. and sending them one sample per month. We feel that this method has served us adequately. The cost to mail this once-a-month sample to the state laboratory is $1.75. The new requirements are still being debated but the best estimate at this time is that we will have to sample at least five times per month, provide our own bottles and send the samples to a private laboratory. We have not been able to put a cost to this as yet but it is not expected to be cheap.

$ 1.75

Storm Water Treatment

We are at a complete loss as to what the cost of this is going to be. If it has to be treated (and it seems to us that that is what is in the works) then the floodgates are open on the cost.

In conclusion, all of the above are relevant to our ability to pay for these requirements. Our taxing limitations are 5 mills by township board action, which we are at now, and an additional 5 mills which can only be authorized by a vote of the people. This additional 5 mills, however, is subject to an overall cap of 50 mills imposed by state law. These millages are applied against our total property value of $29,265,259. Of this extra voted millage, we have used ½ mill for 5 years for our volunteer fire department which will be used to buy new equipment. This new equipment is needed to accomodate new federal and state requirements. If this is not enough, our long term debt commitment is $368,000 which does not include the interest.

My final statement on this financial nightmare is this: We are at, or very near our capacity to handle the financial requirements that are before us now. We are sure that there are more to come. It does no good for our national economy or our local ability to meet other goals or commitments if a community or state - or for that matter if any one or all - tie up themselves in a financial knot for years to come.

In closing, I hope that some or all of this information will be of some use to you in pursuit of solutions to the problems. If I can be of any further assistance on the subject let me know.

Sincerely yours,

Thomas Christensen

Thomas Christensen, Supervisor
Charter Township of Ironwood

TESTIMONY OF

The Association of State Drinking Water Administrators

FEDERAL ASSISTANCE FOR SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE

Before the:

Environment and Public Works Committee
United States Senate

Presented by:

Allen R. Hammer, ASDWA President and Director,
Division of Water Supply Engineering,
Virginia Department of Health

May 15, 1990

FEDERAL ASSISTANCE FOR SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE

INTRODUCTION

GOOD MORNING MR. CHAIRMAN. I AM ALLEN HAMMER; I AM THE PRESIDENT OF THE ASSOCIATION OF STATE DRINKING WATER ADMINISTRATORS (ASDWA) AND THE DIRECTOR OF THE BUREAU OF WATER SUPPLY ENGINEERING IN THE VIRGINIA DEPARTMENT OF HEALTH. IT IS MY PLEASURE TO PRESENT THE ASSOCIATION'S TESTIMONY, WHICH WILL FOCUS ON STATE CONCERNS REGARDING THE ABILITY OF SMALL SYSTEMS TO IMPLEMENT THE SAFE DRINKING WATER ACT AMENDMENTS AND THE NEED FOR FEDERAL FINANCIAL ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS.

ASDWA IS THE PROFESSIONAL ASSOCIATION THAT REPRESENTS THE COLLECTIVE INTERESTS OF STATE DRINKING WATER PROGRAMS. THE ASSOCIATION WAS FORMED IN 1984 IN RESPONSE TO A GROWING NEED OF STATE ADMINISTRATORS FOR REPRESENTATION AT THE NATIONAL LEVEL. IN ITS SHORT HISTORY, ASDWA HAS BECOME A RESPECTED VOICE IN COMMUNICATING THE VIEWS OF STATE PRIMACY AGENTS TO THE CONGRESS, THE ENVIRONMENTAL PROTECTION AGENCY (EPA , AND OTHER PROFESSIONAL ORGANIZATIONS. ASDWA'S PRIMARY MISSION IS THE PROTECTION OF PUBLIC HEALTH THROUGH EFFECTIVE MANAGEMENT OF STATE WATER SUPPLY PROGRAMS AND IMPLEMENTATION OF THE SAFE DRINKING WATER ACT AMENDMENTS OF 1986 (SDWA). TO ACCOMPLISH THIS MISSION, THE ASSOCIATION PROVIDES VITAL COMMUNICATION, COORDINATION, AND INFORMATION TRANSFER SERVICES BETWEEN STATE PROGRAMS AND EPA, THE CONGRESS, AND OTHER NATIONAL ORGANIZATIONS. ALL 57 STATES AND TERRITORIES ARE MEMBERS OF ASDWA; VIRTUALLY ALL STATES AND TERRITORIES ACTIVELY SUPPORT THE ASSOCIATION THROUGH DUES PAYMENT AND/OR PARTICIPATION IN ASDWA ACTIVITIES.

STATE DRINKING WATER PROGRAMS REGULATE APPROXIMATELY 204,000 PUBLIC WATER SUPPLIES NATIONWIDE SERVING APPROXIMATELY 220 MILLION PEOPLE. THIS TOTAL INCLUDES APPROXIMATELY 58,530 COMMUNITY WATER

SYSTEMS, APPROXIMATELY 20,000 SYSTEMS THAT HAVE BEEN RECLASSIFIED AS NON-TRANSIENT NON-COMMUNITY WATER SYSTEMS (NT-NCWS) BY THE EPA, AND SOME 125,000 NON-COMMUNITY WATER SYSTEMS (NCWS) WHICH SERVE TRANSIENT (I.E., NON-RESIDENT) POPULATIONS.

SMALL SYSTEMS AND THEIR CHARACTERISTICS

SMALL SYSTEMS HAVE BEEN DEFINED BY THE EPA AS WATER SYSTEMS WHICH SERVE FEWER THAN 3300 PERSONS. OVER THE PAST DECADE, THE PROBLEMS OF SMALL WATER SYSTEMS HAVE RECEIVED AN INCREASED LEVEL OF ATTENTION -- BY THE EPA, THE STATES, PROFESSIONAL ASSOCIATIONS SUCH AS THE AMERICAN WATER WORKS ASSOCIATION (AWWA), ASDWA, THE NATIONAL RURAL WATER ASSOCIATION (NRWA), AND EVEN THE PUBLIC. THE EPA 1) HAS SPONSORED A NUMBER OF CONFERENCES AND WORKSHOPS ON THE SUBJECT, 2) DEVELOPED A SMALL SYSTEMS STRATEGY IN 1979, 3) FOCUSED ON THE NON-COMMUNITY SEGMENT OF THE PROBLEM IN A 1984 STUDY, AND 4) IN THE PAST YEAR FORMED AN INSTITUTIONAL SUPPORT WORKGROUP WHICH HAS SPONSORED A NUMBER OF WORTHWHILE PROJECTS.

STATES HAVE ALSO LAUNCHED THEIR OWN EFFORTS. IN 1987, ASDWA FORMED A SMALL SYSTEMS COMMITTEE TO FOCUS ON SPECIAL PROBLEMS ASSOCIATED WITH SMALL SYSTEMS. INDIVIDUAL STATES SUCH AS PENNSYLVANIA, MONTANA, AND WASHINGTON HAVE DEVELOPED WORTHWHILE INITIATIVES GEARED TOWARD SOLVING SMALL SYSTEM PROBLEMS. AWWA HAS BECOME EXTREMELY ACTIVE IN THIS AREA, SPONSORING PROJECTS AND EVEN CONSIDERING THE INITIATION AND OPERATION OF A SMALL SYSTEMS "HOTLINE" TO PROVIDE TECHNICAL ASSISTANCE AND INFORMATION BY TELEPHONE.

THE REASONS FOR THE INCREASED ATTENTION ON SMALL SYSTEMS ARE NUMEROUS. FIRST, THE SHEER NUMBER OF SMALL SYSTEMS REPRESENTS AN IMPOSING CASELOAD FOR THE EPA AND STATE PRIMACY AGENCIES. THE SAFE DRINKING WATER ACT OF 1974 ESTABLISHED THE DEFINITION OF A PUBLIC WATER SYSTEM AS ONE WHICH HAS 15 OR MORE SERVICE CONNECTIONS OR

SERVES 25 OR MORE PERSONS AT LEAST 60 DAYS PER YEAR. THIS DEFINITION SWELLED THE NUMBER OF PUBLIC WATER SYSTEMS TO MORE THAN 200,000. THE EPA, IN ITS NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS (NIPDWR) OF 1975, DIVIDED PUBLIC SYSTEMS INTO COMMUNITY AND NON-COMMUNITY SYSTEMS. THE PROPORTION OF SMALL COMMUNITY WATER SYSTEMS -- THOSE SERVING FEWER THAN 3300 PEOPLE (THE EPA DEFINITION) -- NATIONWIDE IS ABOUT 87.8 PERCENT. ACCORDING TO THE EPA'S FEDERAL REPORTING DATA SYSTEM (FRDS), APPROXIMATELY 63.9 PERCENT OF THE NATION'S 58,530 COMMUNITY WATER SYSTEMS CAN BE CATEGORIZED AS "VERY SMALL" -- SERVING 25-500 PEOPLE. ANOTHER 23.9 PERCENT CAN BE CATEGORIZED AS "SMALL" -- SERVING 501-3300 PERSONS. VIRTUALLY ALL OF THE ESTIMATED 144,000 NON-COMMUNITY SYSTEMS (THOSE SERVING NON-FIXED RESIDENTIAL POPULATIONS) ARE SMALL.

SECONDLY, MOST MAXIMUM CONTAMINANT LEVELS (MCLS) AND MONITORING AND REPORTING (M/R) VIOLATIONS OCCUR IN SMALL SYSTEMS. ALTHOUGH SMALL WATER SYSTEMS SERVE ONLY EIGHT PERCENT OF THE U.S. POPULATION, THEY ACCOUNT FOR 93 PERCENT OF MCL VIOLATIONS AND 94 PERCENT OF THE MONITORING AND REPORTING VIOLATIONS. IF ONE BELIEVES THAT THERE IS A HIGH CORRELATION BETWEEN MCL VIOLATIONS AND HEALTH RISKS, THEN DRINKING WATER IN SMALL WATER SYSTEMS WOULD APPEAR TO PRESENT A GREATER RISK TO THE CONSUMING PUBLIC THAN LARGER SYSTEMS.

THE THIRD REASON WHY THERE IS A "SMALL SYSTEMS PROBLEM" IN THE U.S. IS PERHAPS THE MOST SIGNIFICANT ONE. ONE OF THE CHARACTERISTICS OF LARGER WATER SYSTEMS IS THAT THEY EXHIBIT TREMENDOUS ECONOMIES OF SCALE -- AT SOME POINT THE MARGINAL COST OF PRODUCTION IS VERY LOW WHILE THE MARGINAL REVENUES THAT CAN BE GENERATED IS VERY HIGH. SMALL SYSTEMS SUFFER FROM SEVERE DISECONOMIES OF SCALE. THEY CANNOT SPREAD THEIR COSTS OVER A BROAD CUSTOMER BASE, NOR CAN THEY REACH THE "HIGH FIXED COSTS, LOW MARGINAL COSTS" BARRIER BY PUMPING LARGE VOLUMES OF WATER.

SMALL WATER SYSTEM PROBLEMS WILL BECOME MUCH WORSE AS NEW REGULATIONS ARE PROMULGATED UNDER THE SAFE DRINKING WATER ACT AMENDMENTS UNLESS INNOVATIVE SOLUTIONS AND ADDITIONAL SOURCES OF FINANCIAL SUPPORT ARE FOUND. THE DISECONOMIES OF SCALE WILL BE EXACERBATED BY 1) THE NEED TO INSTALL EXPENSIVE TREATMENTS AND 2) INCREASED MONITORING REQUIREMENTS WHICH ARE ALSO EXPENSIVE. EPA'S REGULATORY IMPACT ANALYSES, PREPARED FOR EVERY NEW REGULATION, SHOW THAT THE COST OF NEW REGULATIONS AMOUNTS TO A FEW DOLLARS PER HOUSEHOLD PER YEAR FOR LARGE SYSTEMS, BUT HUNDREDS OF DOLLARS PER YEAR IN ANNUAL HOUSEHOLD COSTS FOR CUSTOMERS OF SMALL SYSTEMS.

IN ADDITION TO SDWA IMPACTS, MOST OF THE EXISTING INFRASTRUCTURE OF SMALL SYSTEMS IS IN DIRE NEED OF REPLACEMENT AND/OR UPGRADING. MANY SMALL SYSTEMS WERE INSTALLED WITHOUT ENGINEERING AND ARE SUBSTANDARD. SOME ASDWA MEMBERS BELIEVE THIS TO BE A BIGGER PROBLEM THAN THAT OF TREATMENT AND MONITORING.

THESE MAJOR FACTORS LEAD TO ONE INESCAPABLE CONCLUSION: MANY SMALL WATER SYSTEMS SIMPLY DO NOT HAVE THE CAPABILITY TO BE VIABLE WATER UTILITIES. TO BE A VIABLE WATER UTILITY, A PUBLIC WATER SYSTEM NEEDS VARIOUS ATTRIBUTES: 1) GOOD MANAGEMENT; 2) AN UNDERSTANDING OF WATER SUPPLY ENGINEERING AND OPERATIONS; 3) A CUSTOMER BASE THAT HAS BOTH THE ABILITY AND WILLINGNESS TO PAY; 4) AN UNDERSTANDING OF ACCOUNTING, FINANCE, AND WATER RATES; AND 5) THE ABILITY TO REACT IN A TIMELY AND APPROPRIATE MANNER TO REGULATORY ENTITIES SUCH AS STATE PRIMACY AGENCIES AND THE ENVIRONMENTAL PROTECTION AGENCY. THE TYPICAL SMALL WATER SYSTEM POSSESSES FEW, IF ANY, OF THESE ATTRIBUTES.

SMALL COMMUNITY WATER SYSTEMS GENERALLY HAVE THE FOLLOWING CHARACTERISTICS:

O MANY SERVE FEWER THAN 1000 PERSONS (CUSTOMER BASE);

- EXHIBIT NO ECONOMIES OF SCALE (DISECONOMIES);
- DO NOT HAVE A FULL-TIME OPERATOR (CAPABILITY AND UNDERSTANDING);
- COMMUNITY SERVED IS OFTEN A MOBILE HOME PARK, A HOMEOWNERS ASSOCIATION, OR INSTITUTION (CUSTOMER BASE);
- DO NOT HAVE A SEPARATE RATE FOR WATER (ABILITY/WILLINGNESS TO PAY);
- HAVE LITTLE OR NO ACCESS TO CAPITAL (FINANCIAL);
- OWNER OFTEN IS UNAWARE THAT THE WATER SYSTEM IS A REGULATED ENTITY UNDER THE SAFE DRINKING WATER ACT (MANAGEMENT);
- OWNER HAS LITTLE OR NO KNOWLEDGE OF WATER SYSTEM MANAGEMENT, ENGINEERING, OR OPERATIONS (MANAGEMENT);
- A SINGLE SOURCE OF RESPONSIBILITY OFTEN CANNOT BE IDENTIFIED (MANAGEMENT); AND
- A HIGH PROPORTION OF CUSTOMER BASE CONSISTS OF PERSONS WITH LOW OR FIXED INCOMES (ABILITY TO PAY).

THESE CHARACTERISTICS CAN BE COMPARED WITH THE ATTRIBUTES OF A SUCCESSFUL SYSTEM, DISCUSSED ABOVE AND SHOWN IN PARENTHESES.

ONE CAN ARRIVE AT TWO BASIC CONCLUSIONS FROM REVIEWING SMALL SYSTEMS STATISTICS AND THE CHARACTERISTICS OF SMALL WATER SYSTEMS:

1) SMALL SYSTEMS ARE EXTREMELY DIFFICULT AND TIME CONSUMING TO REGULATE; AND

2) A SIGNIFICANT PROPORTION OF THEM ARE EITHER INCAPABLE OF PROVIDING A SAFE AND RELIABLE POTABLE SUPPLY OF WATER OR HAVE THE POTENTIAL FOR NOT DOING SO.

THE "BOTTOM LINE" IS THAT AS THE STATES AND EPA IMPLEMENT THE NUMEROUS PROVISIONS OF THE SAFE DRINKING WATER ACT AMENDMENTS OF 1986, MANY SMALL SYSTEMS SIMPLY WILL NOT HAVE THE RESOURCES TO REMAIN VIABLE. THE SDWA AMENDMENTS IMPOSES TWO BASIC SETS OF BURDENS ON SMALL SYSTEMS:

1) EACH REGULATION REQUIRES EXTENSIVE MONITORING TO BE CONDUCTED UNDER STATE DIRECTION FOR CONTAMINANTS THAT ARE EXPECTED TO BE FOUND ONLY IN A VERY SMALL PROPORTION OF SAMPLES; THE RESOURCES REQUIRED TO COLLECT AND ANALYZE A VAST NUMBER OF SAMPLES WILL BE SUBSTANTIAL;

2) MANY SMALL SYSTEMS, IN ADDITION TO MONITORING, WILL HAVE TO INSTALL EXPENSIVE TREATMENT TO A) REMOVE INORGANIC AND ORGANIC CHEMICALS, B) REMOVE RADON, C) MAKE THEIR WATER LESS CORROSIVE, AND D) PROVIDE DISINFECTION.

HENCE, MANY STATE OFFICIALS BELIEVE THE SMALL SYSTEM DILEMMA WILL GET WORSE BEFORE IT GETS BETTER.

THE SAFE DRINKING WATER ACT AMENDMENTS OF 1986

CONGRESS PASSED THE SAFE DRINKING WATER ACT AMENDMENTS UNANIMOUSLY IN 1986. THE OVERALL GOAL OF THE ACT -- WHICH IS A NOBLE ONE INDEED -- IS TO ENSURE THAT EVERY MAN, WOMAN, AND CHILD WHO USES A PUBLIC WATER SUPPLY IS GUARANTEED A SAFE, POTABLE SUPPLY OF DRINKING WATER. IN THE ACT, CONGRESS MANDATED THAT 83 DRINKING WATER CONTAMINANTS BE REGULATED BY 1989 WITH AN ADDITIONAL 25 CONTAMINANTS REGULATED EVERY THREE YEARS THEREAFTER (PRESUMABLY INTO PERPETUITY). IN ADDITION TO THE 83 CONTAMINANTS, CONGRESS

MANDATED THAT REGULATIONS BE DEVELOPED FOR UNFILTERED SURFACE SUPPLIES AND DISINFECTION OF ALL GROUNDWATER SYSTEMS.

TO COMPLY WITH THESE CONGRESSIONAL MANDATES, EPA IS IN THE PROCESS OF DEVELOPING AND PROMULGATING NINE MAJOR REGULATORY PACKAGES. IN ADDITION TO THE RULES COVERING SPECIFIC CONTAMINANTS, THE EPA HAS ALREADY PROMULGATED REGULATIONS ON THE BAN OF LEAD MATERIALS IN WATER DISTRIBUTION SYSTEMS, PUBLIC NOTIFICATION, AND STATE PRIMACY REQUIREMENTS. WHEN ALL RULES ARE PROMULGATED, THEY WILL REPRESENT A HUGE BURDEN ON EVERYONE, ESPECIALLY SMALL SYSTEMS. TO PUT THE IMPACT IN PERSPECTIVE, CONSIDER THAT DURING THE SIX YEAR PERIOD 1986-1992, EPA WILL PROMULGATE MORE RULES COVERING MORE CONTAMINANTS (WELL OVER 100) THAN HAVE BEEN ESTABLISHED IN THE ENTIRE 214 YEAR HISTORY OF OUR NATION.

TO DATE, EPA HAS PROMULGATED REGULATIONS FOR VOLATILE ORGANIC CHEMICALS, TOTAL COLIFORMS, AND SURFACE WATER TREATMENT. IN FY-91, EPA WILL PROMULGATE OR PROPOSE FOUR MORE COMPREHENSIVE SETS OF RULES: LEAD AND COPPER, PHASE II INORGANICS AND ORGANICS; PHASE V INORGANICS AND ORGANICS; AND RADIONUCLIDES. REGULATIONS COVERING GROUNDWATER DISINFECTION AND DISINFECTANTS/DISINFECTION BY-PRODUCTS WILL BE FORTHCOMING IN 1992.

THE EPA HAS PREPARED AN ESTIMATE OF THE TOTAL BENEFITS AND TOTAL COSTS ASSOCIATED WITH IMPLEMENTATION OF THE 1986 AMENDMENTS TO THE SDWA. EPA ESTIMATES THE TOTAL IMPACT AT $10 BILLION, OR AN ANNUALIZED COST OF $2.5 BILLION PER YEAR (USING A CAPITAL AMORTIZATION PERIOD OF 20 YEARS AND A 10% COST OF CAPITAL). OF THE TOTAL IMPACT, WHICH IS THOUGHT TO BE UNDERSTATED BY A FACTOR OF THREE (DUE TO REGULATIONS WHICH ARE NOT INCLUDED PLUS THE "DEFERRED MAINTENANCE" WHICH WATER SYSTEMS WILL ADDRESS AS A RESULT OF SDWA), APPROXIMATELY HALF WILL BE ON SMALL SYSTEMS -- THE ENTITIES WHICH CAN LEAST AFFORD IT.

AN INDIVIDUAL STATE'S PERSPECTIVE

VIRGINIA IS NOT UNIQUE WHEN IT COMES TO SMALL SYSTEMS. WE HAVE NUMEROUS SMALL SYSTEMS WHICH FIT THE CHARACTERISTICS DESCRIBED EARLIER. ONE OF OUR MOST VEXING PROBLEMS IS WITH SOME REALLY SMALL SYSTEMS WHICH WE REFER TO AS "BASKET CASES." THESE ARE SYSTEMS WHICH, IN ADDITION TO NOT HAVING ANY MONEY, DO NOT HAVE AN OWNER PER SE. IF THE STATE TRIES TO ENFORCE, WE CANNOT FIND A RESPONSIBLE PARTY AND, IF WE DO, THEY RESIST US TO THE POINT OF BRANDISHING LOADED WEAPONS.

WE HAD ONE CASE IN THE SOUTHWESTERN PART OF THE STATE IN WHICH WE HAD ORDERED THE SYSTEM CLOSED DOWN DUE TO HEALTH THREATS. THE OWNERS RESISTED AND THREATENED OUR PEOPLE. WE FINALLY HAD TO REQUEST ASSISTANCE FROM THE VIRGINIA STATE POLICE, WHO FORCIBLY REMOVED THE OWNERS FROM THE SYSTEM SITE. THIS CASE, I CAN ASSURE YOU, IS NOT AN ANOMALY.

ASDWA'S VIEWS ON FEDERAL ASSISTANCE TO WATER SYSTEMS

THE ASSOCIATION'S VIEWS ON FEDERAL SUBSIDIES TO ASSIST WATER SUPPLY SYSTEMS TYPICALLY MIRROR THOSE OF THE AMERICAN WATER WORKS ASSOCIATION (AWWA). AWWA HAS LONG EMBRACED THE POSITION THAT WATER SYSTEMS NEITHER WANT NOR NEED FEDERAL SUBSIDIES.

ASDWA AGREES WITH THAT STANCE IN PRINCIPLE. ASDWA STRONGLY SUPPORTS THE CONCEPT OF FULL COST PRICING FOR WATER UTILITIES. WATER UTILITIES OPERATE IN A MONOPOLISTIC POSITION AND SELL A COMMODITY WHICH IS ESSENTIAL TO LIFE ITSELF. THEREFORE, WE BELIEVE UTILITIES SHOULD BE ABLE TO OBTAIN PUBLIC APPROVAL TO SET RATES AT A LEVEL WHICH ALLOWS GENERATION OF SUFFICIENT REVENUES TO OFFSET BOTH OPERATIONAL COSTS AND CAPITAL COSTS OF REPLACEMENT.

SMALL SYSTEMS, UNFORTUNATELY, CANNOT BE ACCURATELY CALLED "UTILITIES." MOST, IF NOT ALL, ARE NOT IN THE BUSINESS OF SUPPLYING WATER TO CONSUMERS FOR A GAIN OR AS A PRIMARY ENTERPRISE. MOST -- FOR EXAMPLE MOBILE HOME PARKS, CAMPGROUNDS, DAY CARE CENTERS, RESORT AREAS, AND HOMEOWNER ASSOCIATIONS -- PROVIDE WATER ONLY BECAUSE IT IS ESSENTIAL TO KEEP THEIR PRIMARY ENTERPRISE VIABLE.

FOR THE FOLLOWING REASONS, ASDWA IS SUPPORTIVE OF SENATE BILLS 2184, 1331, AND 1296 WHICH WOULD PROVIDE FINANCIAL ASSISTANCE TO SMALL PUBLIC WATER SYSTEMS:

1. MANY THOUSANDS OF SMALL SYSTEMS WILL NOT BE ABLE TO COMPLY WITH THE SAFE DRINKING WATER ACT AMENDMENTS WITHOUT SOME KIND OF FINANCIAL ASSISTANCE;

2. MANY SMALL SYSTEMS ARE CURRENTLY PROVIDING WATER THAT PROBABLY POSES A THREAT TO THE HEALTH OF THE CONSUMERS OF THAT WATER; THIS SITUATION COULD PERHAPS BE AMELIORATED IF FINANCIAL ASSISTANCE WERE MADE AVAILABLE; AND

3. SMALL SYSTEMS EXHIBIT TREMENDOUS DISECONOMIES OF SCALE AND THEREFORE DO NOT FIT THE DESCRIPTION OF A "WATER UTILITY."

4. SMALL SYSTEMS OFTEN SERVE AREAS WHICH ARE "UNREACHABLE" BY LARGER SYSTEMS IN TERMS OF BOTH GEOGRAPHY AND ECONOMICS.

ASDWA ALSO HAS SEVERAL CONCERNS AND RECOMMENDATIONS REGARDING SMALL SYSTEM FINANCIAL ASSISTANCE. FIRST, ANY FINANCIAL ASSISTANCE NEEDS TO BE COORDINATED WITH THE STATE PRIMACY AGENTS. ELIGIBILITY CRITERIA SHOULD BE ESTABLISHED WHICH WOULD ENSURE THAT THE NEEDIEST SYSTEMS -- IN TERMS OF PUBLIC HEALTH PROTECTION -- RECEIVE THE HIGHEST PRIORITY FOR FUNDING.

SECOND, ASDWA RECOMMENDS THAT THE PRIMARY THRUST OF A FINANCIAL ASSISTANCE BE PUBLIC HEALTH PROTECTION RELATED -- AS OPPOSED TO A PUBLIC WORKS PROGRAM.

THIRD, THERE ARE MANY SMALL UTILITIES WHICH ARE NON-VIABLE BECAUSE OF THEIR CHARACTERISTICS. THE STATES AND THE EPA CURRENTLY ARE WORKING ON "VIABILITY SCREENING METHODOLOGIES" WHICH WOULD PREVENT THE FORMATION OF NON-VIABLE SYSTEMS. HOPEFULLY, OVER TIME, THESE VIABILITY SCREENING METHODOLOGIES WILL BE APPLIED TO EXISTING SYSTEMS AS WELL. ASDWA WOULD NOT LIKE TO SEE PUBLIC FUNDS USED TO SUPPORT SYSTEMS WHICH HAVE LITTLE CHANCE OF BEING VIABLE (FROM A FINANCIAL PERSPECTIVE) OVER THE LONG-TERM.

FOURTH, ASDWA RECOMMENDS THAT THE SENATE NOT DIFFERENTIATE BETWEEN SMALL ENTITIES WHICH ARE PUBLICLY OWNED AND THOSE WHICH ARE PRIVATELY OWNED WITH RESPECT TO ELIGIBILITY FOR FINANCIAL ASSISTANCE. SMALL PRIVATELY OWNED SYSTEMS -- SUCH AS MOBILE HOME PARKS AND HOMEOWNERS ASSOCIATIONS -- ARE NOT INVESTOR-OWNED SYSTEMS IN THE TRUE SENSE OF THE TERM. THEY ARE "IN THE WATER BUSINESS" BECAUSE THEY HAVE NO CHOICE. TO DENY THESE SYSTEMS ACCESS TO NEEDED CAPITAL SIMPLY ON THE BASIS OF OWNERSHIP CHARACTERISTICS WOULD BE TANTAMOUNT TO DENYING CONSUMERS OF THESE SYSTEMS EQUAL PUBLIC HEALTH PROTECTION.

SPECIFIC COMMENTS ON THE THREE SENATE BILLS

ASDWA IS GENERALLY SUPPORTIVE OF THE STATE REVOLVING LOAN FUND (SRF) APPROACH EMBODIED IN THE THREE BILLS. WE BELIEVE THIS MODEL, ESTABLISHED UNDER THE WATER QUALITY ACT OF 1987, IS AN EFFECTIVE WAY OF PROVIDING ACCESS TO CAPITAL. STATE EXPERIENCE ON THE WATER POLLUTION CONTROL SIDE, HOWEVER, IS THAT FUNDS APPROPRIATED FOR CAPITALIZATION GRANTS ALMOST NEVER EQUAL THE AMOUNT AUTHORIZED. THE FEDERAL GOVERNMENT, IF IT IS GOING TO PROMISE FINANCIAL

ASSISTANCE, SHOULD BE PREPARED TO DELIVER THROUGH THE APPROPRIATIONS PROCESS.

ASDWA IS SUPPORTIVE OF USING THE PWSS GRANT ALLOCATION FORMULA FOR DISBURSEMENT OF FUNDS SPECIFIED IN S. 1296. WE BELIEVE USE OF THIS FORMULA WOULD RESULT IN AN EQUITABLE DISTRIBUTION OF FUNDS.

ASDWA PREFERS THE ELIGIBILITY LANGUAGE IN S. 1296 TO THAT IN S. 1331. THE WORDING IN S. 1331 WOULD REQUIRE THE STATES OR THE ADMINISTERING FEDERAL AGENCY TO DEFINE "ECONOMICALLY DISTRESSED AREAS" AND TO RESTRICT FUNDING TO THOSE AREAS. MOREOVER, THE WORDING IN SECTION 306 (C)(3) WOULD APPEAR TO ELIMINATE ELIGIBILITY OF NON-PUBLICLY OWNED WATER SUPPLIES. SINCE MORE THAN 50 PERCENT OF ALL SMALL SYSTEMS ARE EITHER MOBILE HOME PARKS OR HOMEOWNERS ASSOCIATIONS, THIS PROVISION IN S. 1331 WOULD PRECLUDE RECEIPT OF FINANCIAL ASSISTANCE BY THOSE SYSTEMS WHICH NEED IT THE MOST.

OF THE THREE BILLS, ASDWA GREATLY PREFERS S. 1296. WE BELIEVE THE FOCUS SHOULD BE ON SMALL RURAL WATER SYSTEMS, NOT ON SMALL ENVIRONMENTAL SYSTEMS. DRINKING WATER HAS HISTORICALLY "GOTTEN LOST" WHEN CONSIDERED ALONGSIDE WASTEWATER AND SOLID WASTE NEEDS. WHEREAS WE RECOGNIZE THAT SMALL COMMUNITIES HAVE PRESSING NEEDS IN THOSE AREAS, WE ARE CONCERNED THAT WATER SUPPLY WOULD NOT RECEIVE THE ATTENTION IT DESERVES IF THE PROGRAM DESCRIBED IN S. 2184 BECAME A REALITY.

ASDWA ALSO IS IN DISAGREEMENT WITH S. 2184 IN TWO OTHER AREAS. FIRST, WE BELIEVE THAT THE ESTABLISHMENT OF AN "OFFICE OF SMALL COMMUNITY ENVIRONMENTAL ASSISTANCE" IN THE EPA WOULD CONFUSE DRINKING WATER RESPONSIBILITIES. EPA ALREADY HAS AN OFFICE OF DRINKING WATER. SINCE APPROXIMATELY 90 PERCENT OF ALL PUBLIC WATER SYSTEMS ARE SMALL, ONE COULD ARGUE THAT THE EPA ALREADY HAS A "SMALL DRINKING WATER SYSTEMS" OFFICE. WE BELIEVE IT WOULD BE

DIFFICULT FOR THE STATES TO WORK WITH TWO DISTINCT ENTITIES WITHIN EPA IN AN EFFORT TO SOLVE THE SAME BASIC PROBLEM.

SECOND, SECTION 6 (c)(2)(B) WOULD RESTRICT ELIGIBILITY TO "UNITS OF LOCAL GOVERNMENT." AS NOTED EARLIER, THIS WOULD ELIMINATE MANY NEEDY SYSTEMS FROM ELIGIBILITY.

FINALLY, WE FAVOR THE PROVISION IN SECTION 6 (e)(2) OF S. 2184 WHICH VESTS APPROVAL AUTHORITY FOR LOANS WITH THE "CHIEF EXECUTIVE OFFICER" OF THE STATE AGENCY WITH [PRIMACY] UNDER ... THE SAFE DRINKING WATER ACT."

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ASDWA APPRECIATES THE OPPORTUNITY TO PRESENT ITS VIEWS TO THE COMMITTEE. WE WOULD BE PLEASED TO DISCUSS OUR VIEWS ON SMALL WATER SYSTEMS WITH MEMBERS OF THE COMMITTEE AT ANY TIME.

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Federal Rural Water Assistance Programs Legislation

The National Utility Contractors Association
Submitted by

Mike Ellis
President, WESTCON
&
President
National Utility Contractors Association

Committee on Environment and Public Works
United States Senate

May 15, 1990

CONSTRUCTORS OF WATER, SEWER AND UNDERGROUND UTILITY SYSTEMS

Mr. Chairman and Members of the Committee:

The National Utility Contractors Association (NUCA) is comprised of 2,000 contractors, suppliers and manufacturers nationwide that specialize in the construction of water supply and waste water treatment projects. Many of the water and sewer systems built by our members are financed through the Farmers Home Administration's (FmHA) Water and Waste Disposal grant and loan programs and the Environmental Protection Agency's (EPA) Construction Grants program.

As a result of our work in constructing the facilities financed by these important programs, I will take this opportunity to offer our industry's views on how rural communities have fared in recent years under these federal Clean Water funding programs.

I will begin by expressing the industry's deep disappointment in President Bush's proposal to once again curtail funding for both the EPA Construction Grants and FmHA's Water and Waste Disposal program in Fiscal Year 1991. For the past few years, dating back to the Reagan administration, Congress has been forced to battle for every last dollar for FmHA and EPA.

The FmHA Water and Waste Disposal programs and the Environmental Protection Agency's (EPA) Construction Grants program represent the federal government's major sources of financing for the nation's rural communities' water and sewage treatment facilities needs. Yet, once again, the Administration is proposing to cut a combined $530 million from these EPA and FmHA programs. This represents a 20% cut from the appropriation levels for these two programs in FY 1990.

Under the Bush proposal FmHA water programs would be cut 28% from the current $631 million to $450 million. This comes at a time when there are, according to FmHA, over 2,000 applications and preapplications pending representing over $1.3 billion in demand for funding. However, as this unmet demand indicates, rural communities still have an acute and urgent need for water and sewer construction financing.

Funding for rural water facilities must be viewed in budgetary terms not as a liability, but as a long-term asset because there is no more basic building block for rural development than clean, accessible water. A sound network of water delivery and sewage treatment facilities is essential to the economic growth of these rural areas. Businesses and industries place the condition of an area's water and sewer system near the top of their list of criteria in determining whether to build, expand or relocate.

Perhaps the most alarming statistic estimates that nearly half of the nation's communities are unable to add businesses and residences onto their sewage treatment systems because they are already operating at full capacity. Many towns and cities have been placed under court-ordered "sewer bans," which means they are unable to build new homes and businesses in their jurisdictions. It has been the experience of many of our member companies located in rural areas that vitally needed businesses that could provide an infusion of capital and employment locate elsewhere due, at least in part, to inadequate water and sewer facilities.

Adequate funding for rural water programs is also necessary to meet the needs of the public health. As we near the 21st century, it is an embarrassment that there are still places in our country where people must rely on outhouses for sanitation. And while septic tanks can be a useful alternative, malfunctioning tanks remain a major source of both groundwater and surface water pollution.

Over the years, the FmHA Water and Waste Disposal programs have also proven to be an important source of financing waste water treatment construction needs mandated by the Clean Water Act. An increasing percentage of EPA sewer construction funding is now awarded to largely urban communities for treatment plan construction. Only a small percentage is now being used to construct sewer pipeline systems, such as collector pipelines. This has penalized small, rural communities because pipeline costs represent 80 percent of the total project cost in small communities. In high-density, urban areas, however, pipeline construction accounts for only 15 to 20 percent of treatment costs.

As a result, fewer EPA construction grants are going to rural areas. At the same time, however, EPA has been stepping up its enforcement policy against all communities and is requiring them -- often by court order -- to build sewage treatment facilities necessary to comply with federal water quality standards. As we have seen, the EPA construction grants and state revolving loan fund programs and these FmHA programs have been consistently under-appropriated over the past five years. In essence, EPA is saying, "You must construct these facilities. How you pay for them is your problem." The FmHA programs are often the "safety net" for rural communities who have a hard time competing for scarce EPA construction funding.

We applaud this Committee for recognizing the difficult job rural communities face in trying to finance water supply and treatment facilities. Innovative solutions, such as those offered by S. 1296, S. 1331, S. 1514 and S. 2184, will go a long way towards meeting the enormous unmet needs for water infrastructure.

While none of these bills alone are a panacea, they will help in the short term to alleviate some of the financial shortfalls that our rural communities face. For the long term, however, we feel that this Committee, the Congress and the Administration need to face up to the fact that the problem of adequate clean water infrastructure is not going to disappear.

With the various provisions of the Clean Water Act expiring in the near future, we feel that now is the time to consider the creation of an assured and continuing source of federal funding for water supply and wastewater treatment facilities. Whether this will consist of a dedicated water trust fund similar to the aviation and highway trust funds, based on a user fee for water usage or whether it is merely a continuation of the current State Revolving Loan program with additional federal capital, something needs to be done to assist rural, suburban and urban communities around the nation.

We at the National utility Contractors Association stand ready to assist the Committee in any way we can to achieve this goal. Thank you for the opportunity to present our views.

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101st CONGRESS
1st Session

S. 1296

To establish a Rural Water Supply Assistance Program to provide for improvement, renewal, rehabilitation, repair and modernization of rural water supply systems.

IN THE SENATE OF THE UNITED STATES

July 12 (legislative day, January 3), 1989

Mr. Burdick introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To establish a Rural Water Supply Assistance Program to provide for improvement, renewal, rehabilitation, repair and modernization of rural water supply systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Rural Water Supply Assistance Act of 1989".

FINDINGS AND PURPOSE

Sec. 2. (a) Findings.—The Congress finds that—

(1) many rural water supply systems are inadequate or insufficient to provide for existing and future needs;

(2) many rural water supply systems have deteriorated to the degree that a reliable supply of water is in jeopardy and large quantities of water are being or may be wasted;

(3) rural water supply systems serve less than three thousand three hundred individuals, and have no ready access to financial markets;

(4) improvement, renewal, rehabilitation, repair and modernization of rural water supply systems is important for public health and economic growth;

(5) to improve rural water supply systems, capital must be available to accomplish improvement, renewal, rehabilitation, repair, and modernization of such systems, and

(6) improvement of rural water supply systems is a national goal, and the Federal Government should provide assistance to the States in making capital available for the improvement, renewal, rehabilitation, repair and modernization of rural water supply systems.

(b) PURPOSE.—The Congress declares that the purpose of this Act is to establish an account from which capitalization grants will be made to States for the purpose of establishing revolving funds for use by the States to finance the improvement, renewal, rehabilitation, repair and modernization of rural water supply systems.

DEFINITIONS

SEC. 3. (a) The term "Construction" shall mean the acquisition, erection, building, alteration, improvement, reconstruction, renovation or rehabilitation of a rural water supply system or water facility, as the case may be, and as defined herein; the inspection and supervision thereof; and the engineering, architectural, legal, economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

(b) The term "Person" shall mean any State, municipality, agency or instrumentality of a State or municipality, individual, corporation, company or partnership.

(c) The term "Rural Water Supply System" shall mean any community or noncommunity system of water facilities for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five, but no more than three thousand three hundred individuals.

(d) The term "Real property" shall mean lands, structures, franchises and interests in land, water, land under water, ground water riparian rights and air rights and any and all things and rights included within said term and includes not only fees simply absolute, but also any and all lesser interests including, but not limited to, easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or rights, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

(e) The term "Revolving fund" shall mean a rural water supply assistance revolving fund established by a State meeting the requirements of title 4 of this Act.

(f) The term "State" shall mean, in addition to the several States, American Samoa, Guam, Northern Marianas, Puerto Rico, Pacific Trust Territories and the Virgin Islands.

(g) The term "State agency" shall mean any State office, department, board, commission, bureau or division, or other agency or instrumentality of the State.

(h) The term "Supplier of water" shall mean any person who owns or operates a rural water supply system.

(i) The term "Water facility" or "Water facilities" shall mean all or any portion of a rural water supply system including plants, structures and other rural and personal property acquired, rehabilitated, or constructed or planned for the purpose of supplying or distributing water, including but not limited to surface or ground water reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, water works or sources of water supply, wells, connections, water meters, rights of flowage or division and other plants, structures, equipment, conveyance, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply or distribution of water.

(j) The term "Water system improvements" shall mean the construction of water facilities for the purposes of improving, renewing, rehabilitating, conserving, repairing or modernizing such system. "Water system improvements" shall not include expansion of an existing public water system. "Water system improvements" shall also mean the combination, integration or consolidation of several rural water supply systems for the purpose of regional water supply management, provided that building construction permits for all structures served by such systems to be consolidated, integrated, or combined were issued prior to the date of enactment of this Act.

(k) The term "Secretary" for the purposes of this Act means the Secretary of the Army.

TITLE II—ADMINISTRATION

SEC. 201. The Secretary of the Army, acting through the Chief of Engineers, shall act as the administrator of the authorities of this Act.

SEC. 202. To implement the authorities of this Act there shall be established within six months of the date of enactment of this Act in the Directorate of Civil Works of the Office of the Chief of Engineers an Office of Water Supply. The Chief Administrator of this Office shall have an educational background or work related experience in public policy, economics, finance, or financial management.

TITLE III—CAPITALIZATION OF REVOLVING FUNDS GRANTS TO THE STATES FOR THE ESTABLISHMENT OF REVOLVING FUNDS

SEC. 301. Subject to the provisions of this Act, the Secretary shall make capitalization grants to each State for the purpose of establishing a rural water supply assistance revolving fund for providing assistance for construction of water system improvements for rural water supply systems.

SEC. 302. A State shall enter into an agreement with the Secretary in order to receive a capitalization grant under this Act. This agreement shall certify to the satisfaction of the Secretary that:

(1) the State will accept grant payments with funds to be made available under this title and will deposit all such payments in the rural water supply assistance revolving fund established by the State in accordance with this Act;

(2) the State will deposit in the revolving fund from State moneys an amount equal to at least 30 percent of the total annual amount of all capitalization grants which will be made to the State with funds to be made available under this Act on or before the date on which each grant payment will be made to the State under this Act;

(3) the State will apply or enter into binding commitments to provide assistance, in accordance with the requirements of this Act, in an amount equal to 130 percent of the amount of each such grant payment within two years after the receipt of such grant payment;

(4) the State will expend or apply all moneys in the fund in an expeditious and timely manner;

(5) the State will commit and expend or apply each grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment and expenditure or application of revenues of the State or State agency holding the revolving fund;

(6) the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards in carrying out the requirements of title 6 of this Act;

(7) the State will require as a condition of making a loan or providing other assistance, as described in section 404 of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted accounting practices, as applicable; and

(8) the State will make annual reports to the Secretary on the actual use of funds in accordance with section 604 of this Act.

SEC. 303. The Secretary will pay to each State, upon deposit by the State of the State share described in section 302 of this Act, the amount of the capitalization grant to be made to the State under this Act.

TITLE IV—WATER SUPPLY ASSISTANCE REVOLVING FUNDS

SEC. 401. Before a State may receive a capitalization grant with funds made available under this Act, the State shall first establish a rural water supply assistance revolving fund which complies with the requirements of this Act.

SEC. 402. State rural water supply assistance revolving funds established pursuant to this Act shall be administered by the State or an agency or instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

SEC. 403. Funds provided to each State rural water supply assistance revolving fund under the provisions of this Act shall be used only for providing financial assistance to any municipality, intermunicipal agency, interstate agency, State agency or instrumentality or supplier of water for construction of water system improvements that are part of a rural water supply system. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

SEC. 404. Except as otherwise limited by State law, a rural water supply assistance revolving fund of a State under this Act may be used:

(a) to make loans to suppliers of water, on the condition that:

(1) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(2) annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later than twenty years after project completion;

(3) the recipient of a loan will establish a dedicated source of revenue for repayment of loans;

(4) the fund will be credited with all payments of principal and interest on all loans; and

(5) any such loans made to a for-profit supplier of water shall be made only at market interest rates, at terms not to exceed twenty years.

(b) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred subsequent to the enactment of this Act.

(c) to guarantee, secure, or purchase insurance for State or local obligations where such action would improve credit market access or reduce interest rates;

(d) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality of the State if the proceeds of the sale of such bonds will be deposited in the fund;

(e) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(f) to earn interest on fund accounts;

(g) for the reasonable costs of administering the State fund, except that not more than 4 percent of all grant awards to such fund under this title may be used for such purpose; and

(h) as a source of income for any recipient of a loan authorized by paragraph (a) of this section, if the loan was made from sources other than (1) grant awards made to the State under this title and (2) State moneys required to be deposited in the fund as a condition to receipt of a grant award.

SEC. 405. The determination of the priority to be given for the construction of water system improvements for rural water supply systems within each State shall be made solely by the State.

SEC. 406. The State may provide financial assistance from its rural water supply assistance revolving fund only for projects for construction of water facilities if such project is on the State's current priority list. Such assistance may be provided regardless of the rank of such project on such list.

TITLE V—ALLOTMENT OF FUNDS

SEC. 501. Sums authorized to be appropriated to carry out this Act shall be allotted by the Secretary in accordance with the formula developed in accord with the allocation provisions of the PWSS Grant Program of the Environmental

Protection Agency as defined in section 35.115(e) of title 40 of the Code of Federal Regulations.

SEC. 502. If the Secretary determines that a State has not complied with the provisions of this Act, the Secretary shall immediately notify the State of such noncompliance and the action required to achieve compliance.

SEC. 503. If a State does not take corrective action within sixty days after the date it receives notification of noncompliance, the Secretary may withhold additional payments to the State pursuant to this Act until the necessary corrective action is taken.

SEC. 504. If the Secretary is not satisfied that adequate corrective actions have been taken by the State within a year after the State is notified that such actions are necessary to comply with the provisions of this Act, the payments withheld from the State by the Secretary under section 503 of this Act will be made available for reallotment in accordance with the most recent formula for allotment of funds under this Act.

TITLE VI—AUDITS AND REPORTS

SEC. 601. Each State electing to establish a rural water supply assistance revolving fund under this Act shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for:

(1) payments received by the fund;

(2) disbursements made by the fund;

(3) investment earnings collected by the fund; and

(4) fund balances at the beginning and end of the accounting period.

SEC. 602. Audits for the use of funds deposited in the rural water supply assistance revolving fund established by such State shall be conducted on an annual basis by the Secretary in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

SEC. 603. After providing for public comment and review, each State shall annually prepare an implementation plan identifying the planned uses of the amounts available to its rural water supply assistance revolving fund. Such plan shall include, but not be limited to:

(1) a list of those projects for construction of water system improvements;

(2) a description of the short-term and long-term goals and objectives of its rural water supply assistance revolving fund;

(3) information on the activities to be supported;

(4) assurances and specific proposals for meeting the requirements of paragraphs (3) and (4) of section 302 of this Act, sections 403 and 404 of this Act; and

(5) the criteria and method established for the distribution of funds.

SEC. 604. Beginning the first fiscal year after the receipt of payments under this Act, the State shall provide an annual report to the Secretary describing how the State has met the goals and objectives of this Act as outlined in its implementation plan for the preceding fiscal year. This report shall include the identification of loan recipients, loan amounts, loan terms and investment interest accumulated and similar details on other forms of financial assistance provided from the rural water supply assistance revolving fund.

SEC. 605. (a) Not later than one year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the financial status and operations of rural water supply assistance revolving funds established by the States under this Act. The Secretary shall prepare such report in cooperation with the States.

(b) This report shall include, at minimum, the following information:

(1) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

(2) as assessment of the effect on user charges of the assistance provided by such revolving funds; and

(3) an assessment of the efficiency of the operation and maintenance of water facilities constructed with assistance provided by such revolving funds.

TITLE VII—TECHNICAL ASSISTANCE

SEC. 701. The Secretary, acting through the Chief of Engineers, is authorized to provide technical assistance to any rural water supply system for the construction of any water system improvements: *Provided,* That such technical assistance is provided on a fully reimbursable basis; and: *Provided further,* That such technical assistance shall not include the physical construction or construction management of any water system improvement.

SEC. 702. For the purposes of this Act the term "technical assistance" shall include, but not be limited to, the development of water system improvement designs, plans, specifications, and the development of management techniques including, but not limited to, accounting systems, maintenance schedules, and other forms of system analysis directed at improving the efficiency of the operation and management of a rural public water supply system.

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is authorized to be appropriated to the Secretary, for allocation to the States as specified in section

501 of this Act, $250,000,000 for each of the five successive fiscal years beginning after the date of enactment of this Act.

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101ST CONGRESS
1ST SESSION

S. 1331

To amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to provide grants to States to establish funds to provide assistance for the construction of water and waste facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 17 (legislative day, JANUARY 3), 1989

Mr. BENTSEN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to provide grants to States to establish funds to provide assistance for the construction of water and waste facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR CONSTRUCTION OF WATER AND WASTE FACILITIES.

The Consolidated Farm and Rural Development Act is amended by inserting after section 306 (7 U.S.C. 1926) the following new section:

"SEC. 306A. GRANTS FOR CONSTRUCTION OF WATER AND WASTE FACILITIES.

"(a) DEFINITION.—As used in this section, the term 'economically distressed area' means a county—

"(1) with—

"(A) a per capita income that is less than or equal to 70 percent of the national average, as determined by the Bureau of Statistics, Department of Labor; and

"(B) an unemployment rate that is greater than or equal to 130 percent of the national average, as determined by such Bureau; or

"(2) on the border of the United States and Mexico.

"(b) GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.—

"(1) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to each State in order to assist the State in establishing an economically distressed area revolving fund (hereinafter in this section referred to as a 'Fund') to provide financial assistance for the construction of wastewater treatment facilities and water supply projects.

"(2) SCHEDULE OF GRANT PAYMENTS.—The Secretary and each State shall jointly establish a payment schedule, under which the Secretary shall pay to each State the amount of each grant to be made to the State under paragraph (4)(A). The payment schedule shall be based on the intended use plan of each State under subsection (d)(3), except that the Secretary shall make payments—

"(A) in quarterly installments; and

"(B) as expeditiously as possible, but no later than the earlier of—

"(i) 2 years after the date that the State obligated moneys from the Fund; or

"(ii) 3 years after the date that the Secretary provided grants to the State under paragraph (1).

"(3) REQUIREMENTS FOR RECEIVING GRANTS.—In order to receive a grant under paragraph (1), a State shall enter into an agreement with the Secretary. In the agreement, a State shall agree to—

"(A) accept grant payments in accordance with the payment schedule established under paragraph (2);

"(B) deposit grant payments into the Fund;

"(C) deposit State moneys into the Fund in an amount greater than or equal to 20 percent of the total amount of all grants made to the State under paragraph (4)(A), on or before the date that each quarterly grant payment is made to the State under paragraph (1);

"(D) provide assistance to projects meeting the requirements of subsection (c)(3) in an amount equal to 120 percent of the amount of each grant payment, within 1 year after receipt of such grant payment;

"(E) expend all funds in the Fund in an expeditious and timely manner;

"(F) construct water supply or wastewater treatment facilities that are eligible to receive financial assistance under subsection (c)(3) and will meet the requirements of applicable Federal and State law, in whole or in part with moneys directly made available by grants under paragraph (1);

"(G) commit or expend each quarterly grant payment that the State shall receive under paragraph (2)(A) in accordance with the laws and procedures of the State that are applicable to the commitment or expenditure of revenues;

"(H) use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards in carrying out subsection (d)(5);

"(I) require, as a condition of making a loan or providing other assistance from the Fund, that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

"(J) make annual reports to the Secretary on the actual use of funds in accordance with subsection (d)(4).

"(4) PAYMENTS.—

"(A) IN GENERAL.—Each State that—

"(i) enters into an agreement described in paragraph (3); and

"(ii) demonstrates to the satisfaction of the Secretary that the State will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the intended use plan of the State, as referred to in subsection (d)(3), for the fiscal year for which the State requests a grant;

shall receive a payment under this section for such fiscal year in an amount equal to the Federal share of the aggregate amount to be expended by the State under such plan for such fiscal year.

"(B) FEDERAL SHARE.—The Federal share for each fiscal year shall be 50 percent.

"(C) STATE SHARE.—The State share equals 100 percent minus the Federal share.

"(D) DISTRIBUTION.—The Secretary shall distribute funds made available for grant awards to a State under paragraph (1) according to the percentage of individuals in such State who reside in economically distressed areas as compared to the nationwide percentage of such individuals.

"(E) ALLOTMENT PERIOD.—

"(i) PERIOD OF AVAILABILITY FOR GRANT AWARD.—A grant award to a State under paragraph (1) for a fiscal year shall be available for obligation by the State during the fiscal year for which moneys are authorized and during the following fiscal year.

"(ii) REALLOTMENT OF UNOBLIGATED FUNDS.—The amount of any payment to a State for the Fund of the State, that is not obligated by the State before or on the last day of the 2-year period of availability established by clause (i), shall be immediately reallotted by the Secretary in the basis of the same ratio established under subparagraphs

(B) and (C) for the second fiscal year of such 2-year period. None of the moneys reallotted by the Secretary shall be reallotted to a State that has not obligated all moneys allotted to such State in the first fiscal year of such 2-year period.

"(5) CORRECTIVE ACTION.—

"(A) NOTIFICATION OF NONCOMPLIANCE.—If the Secretary determines that a State has not complied with subsection (c)(5) or any other provision of this section, the Secretary shall notify the State of such noncompliance and specify the necessary corrective action.

"(B) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date that the State receives notification of such action under subparagraph (A), the Secretary shall withhold additional payments to such State until the Secretary is satisfied that the State has taken the necessary corrective action.

"(C) REALLOTMENT OF WITHHELD PAYMENTS.—If the Secretary is not satisfied that adequate correction actions have been taken by the State within 12 months after the State is notified of such actions under subparagraph (A), the payments withheld from the State by the Secretary under such subparagraph shall be made available for reallotment in accordance with paragraph (4)(D)(ii).

"(c) ECONOMICALLY DISTRESSED AREA REVOLVING LOAN FUNDS.—

"(1) ESTABLISHMENT.—In order for a State to receive a grant under subsection (b)(1), the State shall establish a Fund that complies with the requirements of this subsection.

"(2) ADMINISTRATION.—The Fund of each State shall be administered by an entity of the State that has the authority to operate the Fund in accordance with the requirements of this subsection.

"(3) PROJECTS ELIGIBLE FOR ASSISTANCE.—The Fund for a State shall be used only to provide financial assistance to a municipality, or a intermunicipal, interstate, or State agency, instrumentality, or supplier of water or wastewater services for the construction of a Federal or State approved publicly-owned water supply or wastewater treatment facility that provides water or wastewater services to an economically distressed area in which—

"(A) such services do not exist; and

"(B) at least 80 percent of the dwellings, in a portion of an economically distressed area that receives water or wastewater services from funds provided under subsection (b)(1), were occupied on June 1, 1989.

"(4) FINANCING OF FUND.—The Fund shall be maintained and credited with repayments of loans made by the Fund. The Fund balance shall be continuously available for providing financial assistance under paragraph (5).

"(5) USE OF FUND.—Unless prohibited by State law from providing a particular means of financial assistance under this paragraph, a State may only use a Fund—

"(A) to make a loan, on the condition the—

"(i) the loan is made at or below the market interest rate, including an interest-free loan;

"(ii) annual principal and interest payments shall commence not later than 1 year after completion of any project;

"(iii) the loan shall have a term of repayment not to exceed 40 years;

"(iv) the recipient of the loan shall establish a dedicated source of revenue for payment of the loan; and

"(v) the Fund shall be credited with all payments of principal and interest on the loan;

"(B) to guarantee, or purchase insurance for, a loan obligation if such action would improve credit market access or reduce interest rates;

"(C) as a source of revenue or security for the payment of principal and interest on a revenue or general obligation bond issued by the State, if the proceeds of the sale of the bond will be deposited in the Fund;

"(D) to provide a loan guarantee for a revolving fund that is established by a municipality or intermunicipal agency that is similar to the Fund;

"(E) to earn interest on Fund accounts;

"(F) to provide for the reasonable costs of administering the Fund and conducting activities under this section; and

"(G) to make a grant, on the condition that the amount of the grant may not impair the maintenance of the total Federal and State deposits to the Fund as provided for in subsection (b)(3).

"(d) AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.—

"(1) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State that establishes a Fund shall utilize sufficient fiscal controls and accounting procedures to ensure proper accounting during appropriate accounting periods for—

"(A) payments received by the Fund;

"(B) disbursements made by the Fund; and

"(C) Fund balances at the beginning and end of the accounting period.

"(2) ANNUAL FEDERAL AUDITS.—The Secretary shall, at least once each fiscal year, conduct or require each State to independently conduct reviews and audits as may be considered necessary or appropriate by the Secretary to carry out this section. Audits of the use of moneys deposited in the Fund shall be conducted in accordance with the auditing procedures of the General Accounting Office, including the procedures described in chapter 75 of title 31, United States Code.

"(3) INTENDED USE PLAN.—After providing for public comment and review, each State shall prepare a plan each fiscal year that identifies the intended uses of the Fund for such State. Such plan shall include—

"(A) a description of the short- and long-term goals and objectives of the Fund of the State;

"(B) information on the activities to be supported by the Fund, including a description of project categories, terms of financial assistance, and the intended recipients of assistance;

"(C) specific proposals for meeting the requirements of subparagraphs (C) through (F) of subsection (b)(3); and

"(D) the criteria and method established for the distribution of moneys under the Fund.

"(4) ANNUAL REPORT.—Beginning on the first fiscal year after the receipt of payments under subsection (b)(4)(A), a State shall provide an annual report to the Secretary that describes whether, and the manner in which, the State has met the goals for the previous fiscal year as identified in the plan prepared for such year under paragraph (3), including identification of loan receipts, loan amounts, loan terms, and similar details on other forms of financial assistance provided from the Fund.

"(5) ANNUAL FEDERAL OVERSIGHT REVIEW.—The Secretary shall conduct an annual oversight review of each State plan prepared under subsection (d)(3), each State report prepared under paragraph (3), and other such materials as are considered necessary and appropriate in carrying out this section. After reasonable notice by the Secretary to the State or the recipient of a loan from the Fund, the State or loan recipient shall make available to the Secretary such records as the Secretary reasonably requires to review and determine compliance with this section.

"(6) APPLICATION OF PROVISIONS.—If the Secretary terminates a grant provided to a State under subsection (b)(1)—

"(A) such State shall solely conduct the reviews and audits under paragraph (2); and

"(B) the requirements set forth in paragraphs (3) through (5) shall not be applicable to the Secretary or such State.

"(e) AMOUNTS TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, of the amounts made available to carry out section 310B(b) for fiscal years 1990 through 1994, the Secretary shall make available such amounts for each fiscal year to carry out this section.".

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101st CONGRESS
1st Session

S. 1514

Relating to the financing of certain publicly owned treatment works, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3 (legislative day, JANUARY 3), 1989

Mr. BRADLEY (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

Relating to the financing of certain publicly owned treatment works, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCING OF PUBLICLY OWNED TREATMENT WORKS THAT HAVE RECEIVED GRANT FUNDS.

(a) IN GENERAL.—Section 201 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1281) is amended by adding at the end thereof the following subsection:

"(q)(1) Notwithstanding any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, acting in accordance with the provisions of this subsection, issue debt with respect to a publicly owned treatment works that has received financial assistance of any kind under this Act and may pledge, as security for repayment of such debt obligation, revenues realized from the operation of the publicly owned treatment works, subject to the prior payment of the costs of proper operation and maintenance thereof. Such debt issued in accordance with this subsection shall not be considered (A) to commingle Federal and private interests in the publicly owned treatment works; (B) to disturb public use and possession thereof; (C) to improperly dispose of public interests therein; or (D) otherwise to breach the terms of the grant or financial assistance made thereto or to necessitate the repayment of same (or any portion thereof) to the United States Government.

"(2) This subsection shall apply only if at least 95 percent of the proceeds of the debt issuance will be used for: (A) the construction portion of a program for the rehabilitation or expansion of the publicly owned treatment works, provided that such treatment works, as rehabilitated or expanded, will conform to or exceed any design specifications and effluent limitations made applicable to it by any statute, regulation or agreement, including those contained in the original grant agreement and in the permit issued pursuant to section 402 of this Act for such works; (B) the establishment of dedicated funds, trust accounts or other financial mechanisms to subsidize or stabilize rates, provide for equipment repair or replacement or for such other uses as may have demonstrable benefit to the rate payers of the treatment works or to any municipality or public authority directly concerned in the construction or operation of the treatment works; or (C) the financing or securing of the financing of other environmentally designated projects. For the purpose of this subsection, environmentally designated projects are defined to be those projects which are undertaken by the governmental unit that is the owner of the treatment works, for the purpose of improving the natural environment within the jurisdiction of the governmental unit; reducing air or water (including groundwater) pollution within jurisdiction of the governmental unit; or reducing or recycling solid or hazardous waste generated or disposed of within jurisdiction of the governmental unit.

"(3) This subsection shall not apply unless the owner of the treatment works with respect to which debt issuance is contemplated pursuant to this subsection obtains, from the chief administrative officer of the agency or department of the State responsible for administering the State water pollution control revolving fund pursuant to section 603(b) of this Act (hereinafter referred to as the "State Administrator") in the State in which such treatment works is located, a prior determination that such issuance will be in compliance with the requirements of paragraph (2) of this subsection.

"(4) The owner of a treatment work with respect to which debt issuance is contemplated pursuant to this subsection shall submit for the approval of the State Administrator, a statement describing the project or activities to which the contemplated financing will be applied, in detail sufficient to demonstrate that the contemplated debt issuance will be in compliance with the requirements of paragraph (2) of this subsection. The State Administrator shall give written notice of a determination of compliance or noncompliance within 120 days of receipt of the plan of financing. If no such notice is given by the State Administrator within the prescribed time, the debt issuance shall be deemed to be in compliance with the requirements of paragraph (2) of this subsection. At the time of giving notice of a determination of noncompliance, the State Administrator shall specify in writing the matters which must be modified in order to achieve compliance with the requirements of paragraph (2) of this subsection. The owner of the treatment works may thereafter file an amended plan of financing to comply with such notice. The State Administrator shall give written notice of compliance or noncompliance with respect to such amended plan of financing within 120 days of the receipt thereof. If no such notice is given by the State Administrator within the prescribed time, the debt issuance as revised shall be deemed to be in compliance with the requirements of paragraph (2) of this subsection.

"(5) The Administrator shall direct the State Administrator of each State to promulgate regulations and procedures to implement paragraph (4) hereof.".

(b) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 2. AUTHORITY OF STATE REVOLVING FUNDS TO GUARANTEE LOCAL DEBT OBLIGATIONS FOR EQUIPMENT TO BE USED ON PUBLICLY OWNED TREATMENT WORKS.

(a) IN GENERAL.—Section 603(d) of the Clean Water Act (33 U.S.C. 138(d)) is amended by deleting the "and" at the end of paragraph (6), deleting the period at the end of paragraph (7), and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following:

"(8) to guarantee, or purchase insurance or letters of credit for, local obligations for equipment, facilities or plants to be used in conjunction with or in proximity to treatment works in operation at the time such a guarantee is made, provided such equipment, facilities, or plants are procured pursuant to a purchase contract, lease or service contract arrangement with a term at least equal to the estimated life of the subject equipment, facilities, or plants, and the full cost thereof is amortized during said term.".

(b) AMENDMENT.—Section 603 of the Clean Water Act (33 U.S.C. 1383) is amended by adding at the end thereof the following:

"(i) Nothing in this Act, or any regulation or any condition of any grant or financial assistance thereunder, shall prohibit the owner of a publicly owned treatment works from granting a security interest in any equipment, facilities, or plants procured pursuant to obligations which have been guaranteed or insured under the authority of paragraph (8) of subsection (d). Arrangements made in compliance with such paragraph (8) shall not be considered (1) to commingle Federal and private interests in publicly owned treatment works; (2) to disturb public use and possession thereof; (3) to improperly dispose or encumber public interests therein; or, (4) otherwise to breach the terms of any grant or other financial assistance (including, without limitation, assistance pursuant to this Act) to publicly owned treatment works of the type hereinabove referred to.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.

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101st CONGRESS
2d Session

S. 2184

To assist small communities in construction of facilities for the protection of the environment and human health.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, JANUARY 23), 1990

Mr. BAUCUS (for himself, Mr. MITCHELL, Mr. BYRD, Mr. BURDICK, Mr. BENTSEN, Mr. SASSER, Mr. DASCHLE, Mr. SARBANES, Mr. COHEN, Mr. BRADLEY, Mr. JEFFORDS, Mr. CONRAD, Mr. HARKIN, Mr. SIMON, Mr. KERREY, Mr. ROCKEFELLER, Mr. D'AMATO, Mr. SANFORD, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To assist small communities in construction of facilities for the protection of the environment and human health.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.—(a) This Act may be cited as the "Small Community Environmental Assistance Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short Title and Table of Contents.
Sec. 2. Findings.
Sec. 3. Purposes.

Sec. 4. Definitions.
Sec. 5. Grants to States for Establishment of Small Community Pollution Control Revolving Funds.
Sec. 6. Small Community Pollution Control Revolving Funds.
Sec. 7. Intended Use Plan.
Sec. 8. Audits, Reports, and Fiscal Controls.
Sec. 9. Small Community Technical Assistance and Outreach.
Sec. 10. Authorization of Appropriations.

FINDINGS

SEC. 2. FINDINGS.—The Congress finds that—

(1) small communities face special problems in providing for facilities to protect the environment and human health, including sewage disposal, safe drinking water, and environmentally sound solid waste disposal;

(2) small communities often lack economies of scale necessary to provide an adequate financial base for construction and operation of environmental protection facilities;

(3) small communities often have limited access to financial markets due to limited management capability and limited access to financial and technical services;

(4) the Environmental Protection Agency estimates that between 21 percent and 30 percent of small communities will have difficulty using revenue bonds for environmental facilities because of limited financial resources;

(5) many small communities have not benefitted from existing environmental financing and assistance programs of the Federal Government because such as-

sistance programs are often focused on the largest environmental problems caused by larger municipalities (e.g., only 8 percent of the Federal sewage treatment plant grant funds have been devoted to small communities);

(6) existing Federal grant assistance programs for waste water treatment are being phased out in favor of State loan funds and some small communities will have limited access to such funds and some disadvantaged small communities may be unable to comply with pollution control requirements without grant assistance;

(7) residents of small communities often spend a larger portion of household income for environmental services than do residents of large communities;

(8) recent amendments to Federal environmental laws will require additional efforts by small communities to address environmental problems and devote a larger percentage of resources to this effort;

(9) the Environmental Protection Agency estimates that small community households may face an average increase of $170 for environmental user charges and fees as a result of new environmental requirements;

(10) the National Council on Public Works Improvement recently concluded that "A national prob-

lem does exist for small water systems . . . and . . . these small water systems operate on a marginal basis, with inadequate financial resources to correct existing deficiencies. . ."

(11) the Environmental Protection Agency reports that small water systems serve 8 percent of the United States population, but account for over 90 percent of the violations of the Safe Drinking Water Act;

(12) the Environmental Protection Agency reports that 80 percent of the communities in violation of sewage treatment requirements are rural communities and that rural community sewage treatment needs exceed $28,000,000,000;

(13) it is essential that the Federal Government play a more active role in providing financial assistance to small communities for construction of environmental protection facilities;

(14) it is essential that the Federal Government make a special effort to provide financial assistance, including grant assistance, to small communities which are economically disadvantaged; and

(15) it is essential that the Federal Government expand and strengthen technical assistance and outreach programs to assist small communities in complying with environmental requirements.

SEC. 3. PURPOSE.—The purpose of this Act is to—

(1) provide for the creation of State revolving loan funds to assist small communities in financing of sewer, water, and solid waste facilities and projects;

(2) to provide for grant assistance to disadvantaged small communities for construction of sewer, water, and solid waste facilities and projects; and

(3) to expand and strengthen Federal programs for providing technical assistance and outreach to small communities on issues relating to environmental protection and construction of environmental facilities and projects.

DEFINITIONS

SEC. 4. DEFINITIONS.—For the purposes of this Act—

(1) the term "Administrator" refers to the Administrator of the Environmental Protection Agency;

(2) the term "State" has the same meaning as established in section 502(3) of the Federal Water Pollution Control Act;

(3) the term "treatment works" shall have the same meaning as established in section 212(2) of the Federal Water Pollution Control Act;

(4) the term "solid waste management facility" shall have the same meaning as that established in section 1004(29) of the Solid Waste Disposal Act;

(5) the term "sanitary landfill" shall have the same meaning as that established in section 1004(26) of the Solid Waste Disposal Act;

(6) the term "public water system" has the same meaning as that established in section 1401(4) of the Safe Drinking Water Act;

(7) the term "construction" has the same meaning as that established in section 1004(2) of the Solid Waste Disposal Act;

(8) the term "small community" refers to local units of government in which the population is less than 2,500 individuals, as determined by the latest decennial census of the United States;

(9) the term "disadvantaged small community" refers to a small community in which the median household income of the residents of such community is less than 75 percent of the national median household income, as determined by the latest decennial census of the United States;

(10) the term "investor owned system" means any treatment works, public water system, or solid waste management facility which is owned and operated by a private person for profit; and

(11) the term "underground storage tank" has the same meaning as that established in section 9001(1) of the Solid Waste Disposal Act, as amended.

SEC. 5. GRANTS TO STATES FOR ESTABLISHMENT OF SMALL COMMUNITY POLLUTION CONTROL REVOLVING FUNDS.—(a) GENERAL AUTHORITY.—Subject to the provisions of this Act, the Administrator shall make grants to each State for the purpose of establishing a small community pollution control revolving fund.

(b) PURPOSE.—State small community revolving loan funds shall be available for providing financial assistance to small communities for—

(1) construction of waste-water treatment works;

(2) construction of public water systems;

(3) construction of solid waste management facilities; and

(4) assuring that undergound storage tanks which are owned and operated by small communities are in compliance with section 9003(c) of the Solid Waste Disposal Act, as amended.

(c) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this

Act. Such schedule shall be based on the State's intended use plan under section 7 of this Act, except that—

(1) such payments shall be made in cash in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

(d) FORMULA.—Sums authorized to be appropriated to carry out this section shall be allotted by the Administrator in accordance with a formula, established by the Administrator, which reflects the need for construction of facilities for wastewater treatment, drinking water supply, and solid waste disposal in small communities and the proportion of such need in each State in disadvantaged small communities.

(e) MINIMUM ALLOTMENT.—Notwithstanding any other provision of law, the Administrator shall ensure that each State receives a minimum allotment of not less than one percent of the funds appropriated pursuant to this Act in each fiscal year.

(f) ALLOTMENT PERIOD.—(1) PERIOD OF AVAILABILITY FOR GRANT AWARD.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

(2) REALLOTMENT OF UNOBLIGATED FUNDS.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (d) of this section. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

SEC. 6. SMALL COMMUNITY POLLUTION CONTROL REVOLVING FUNDS.—(a) GENERAL RULE.—To receive grant funds made available under this Act, a State shall first establish a small community pollution control revolving fund which complies with the requirements of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State shall accept grant payments with funds to be made available under this Act in accordance with a payment schedule established pursuant to section 5(c) of this Act and will deposit all such payments in the small community pollution control revolv-

ing fund established by the State in accordance with this Act;

(2) the State will deposit in the fund from State moneys an amount equal to at least 25 percent of the total amount of all grants which will be made to the State with funds to be made available under this Act on or before the date on which each quarterly grant payment will be made to the State under this Act;

(3) the State will enter into binding commitments with small communities to provide assistance in accordance with the requirements of this Act in an amount equal to 125 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4) all funds in the fund will be expended in an expeditious and timely manner;

(5) in addition to complying with the requirements of this Act, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(6) in carrying out the requirements of this Act, the State will use accounting, audit, and fiscal proce-

dures conforming to generally accepted government accounting standards;

(7) the State will require as a condition of making a loan or providing other assistance from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

(8) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 7(b) of this Act.

(c) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a small community pollution control revolving fund of a State under this section may be used only—

(1) to makes loans to small communities, on the condition that—

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 30 years;

(B) annual principal and interest payments will commence not later than 3 years after completion of an project and all loans will be fully amortized not later than 30 years after project completion;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the recipient of the loan agrees to repay the loan and the fund will be credited with all payments of principal and interest on all loans; and

(E) any loan made to an investor owned system shall be at market interest rates;

(2) to make grants to small communities, on the condition that—

(A) such grants do not exceed 75 percent of the costs of eligible projects; and

(B) the local unit of government receiving a grant is a disadvantaged small community.

(3) to guarantee, or purchase insurance for, small community obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to earn interest on fund accounts; and

(6) for the reasonable costs of administering the fund and conducting activities under this Act, except

that such amounts shall not exceed 4 percent of the balance of such fund.

(d) ADMINISTRATION.—Each State loan fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate the fund in accordance with the requirements of this Act.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—(1) A State may provide financial assistance from its small community pollution control revolving fund only with respect to a waste-water treatment project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of the Federal Water Pollution Control Act.

(2) A State may provide financial assistance from its small community pollution control revolving loan fund only with respect to a public water system which is approved by the chief executive officer of the State agency with primary enforcement authority pursuant to section 1413 of the Safe Drinking Water Act.

(3) A State may provide finanical assistance from its small community pollution control revolving loan fund only with respect to a solid waste management facility which is consistent with a plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

SEC. 7. INTENDED USE PLAN.—(a)(1) IN GENERAL.— Prior to the beginning of each fiscal year, each State shall prepare and submit to the Administrator a plan identifying the intended uses of the amounts available to its small community pollution control revolving fund. Such intended use plan shall include, but not be limited to—

(A) a list of those projects for construction of waste-water treatment works, water supply systems, and solid waste management facilities which are pending;

(B) a description of the short- and long-term goals and objectives of the pollution control revolving fund;

(C) information on the activities to be supported, including a description of project categories, terms of financial assistance, and communities served;

(D) assurances and specific proposals for meeting the requirements of subsection (G) of section (6) of this Act; and

(E) the criteria and method established for the allocation of funds to proposed projects.

(2) The Administrator shall review the plan developed pursuant to this subsection and shall not make grant payments pursuant to section 5 of this Act unless he determines that such plan is consistent with the requirements and objectives of this Act.

(3) The State shall provide for public review and comment on the plan developed pursuant to this section.

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums in the fund, or $100,000, whichever amount is greater, to carry out planning and related activities pursuant to this section.

SEC. 8. AUDITS, REPORTS, AND FISCAL CONTROLS.—(a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State electing to establish a small community pollution control revolving fund under this Act shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

(1) payments received by the fund;

(2) disbursements made by the fund; and

(3) fund balances at the beginning and end of the accounting period.

(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(c) ANNUAL REPORT.—Beginning 60 days after the end of the first fiscal year after the receipt of payments under this Act, the State shall submit an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year, as identified in the plan prepared for such year pursuant to subsection (a), including identification of loan and grant recipients, loan and grant amounts, and terms and similar details on other forms of financial assistance provided from the small community pollution control revolving fund.

(d) NONCOMPLIANCE.—(1) If the Administrator determines that a State has not complied with the requirements of this Act, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

(2) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of noncompliance under paragraph (1), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

(3) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate correction actions have been taken by the State within 12 months after the State is notified of noncompliance, the payments withheld from the State by the Administrator shall be made available

for reallotment in accordance with the formula for allotment of funds under this Act.

SMALL COMMUNITY TECHNICAL ASSISTANCE AND OUTREACH

SEC. 9. SMALL COMMUNITY TECHNICAL ASSISTANCE AND OUTREACH.—(a) OFFICE OF SMALL COMMUNITY ENVIRONMENTAL ASSISTANCE.—(1) The Administrator shall establish an Office of Small Community Environmental Assistance.

(2) FUNCTIONS.—The functions of the Office of Small Community Environmental Assistance shall be to—

(A) manage grants pursuant to section 5 of this Act;

(B) oversee the operation of State small community pollution control revolving funds;

(C) provide information and guidance to small communities in financial analysis, financial planning, and assessment of project feasibility;

(D) provide small communities with information and guidance concerning compliance with environmental protection requirements of Federal statutes; and

(E) provide information and guidance to small communities on issues including regionalization of environmental facilities, reform of existing rate structures; and operation of special management districts.

(b) SMALL COMMUNITY CIRCUIT RIDER PROGRAM.—(1) In implementation of the functions identified in subsection (a) the Office of Small Community Environmental Assistance may provide grants to appropriate State agencies and not-for-profit organizations, including organizations operating at a multistate level to assist in the dissemination of information to small communities and to assist small communities in assessment of issues relating to financing of environmental facilities and compliance with environmental laws.

(2) Grants pursuant to this section shall be in an amount determined by the Administrator and shall be matched by non-Federal funds in an amount equal to not less than 25 percent of the small community environmental assistance program cost in a given fiscal year.

(3) In awarding grants pursuant to this section the Administrator shall, to the fullest extent practicable, assure that communities in all States have access to assistance pursuant to this subsection, that award of grants is on a competitive basis, and that past performance of an applicant is considered in awarding future grants.

(4) Recipients of grants pursuant to this section shall provide such information as the Administrator deems appropriate in applications for grant assistance and in reports of program activities.

(c) Coordination With Other Federal Agencies.—The Administrator shall work with other Federal agencies, including the Department of Agriculture, in the implementation of this section.

Sec. 10. Authorization of Appropriations.—There is authorized to be appropriated to carry out this Act $200,000,000 for fiscal year 1992, $300,000,000 for fiscal year 1993, $500,000,000 for fiscal year 1994, and $500,000,000 for fiscal year 1995.

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